

THE CLERK OF THE HOUSE OF REPRESENTATIVES
STATE OF TEXAS
DALLAS, TEXAS

FILED MAR 13 1997

By Bill Carter

h B. No. 2909

A BILL TO BE ENTITLED

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(b) of this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun [~~a person of unsound mind~~];

1 (8) has not, in the five years preceding the date of
2 application, been convicted of a Class A or Class B misdemeanor or
3 an offense under Section 42.01, Penal Code;

4 (9) is fully qualified under applicable federal and
5 state law to purchase a handgun;

6 (10) has not been finally determined to be delinquent
7 in making a child support payment administered or collected by the
8 attorney general;

9 (11) has not been finally determined to be delinquent
10 in the payment of a tax or other money collected by the
11 comptroller, state treasurer, tax collector of a political
12 subdivision of the state, Texas Alcoholic Beverage Commission, or
13 any other agency or subdivision of the state;

14 (12) has not been finally determined to be in default
15 on a loan made under Chapter 57, Education Code;

16 (13) is not currently restricted under a court
17 protective order or subject to a restraining order affecting the
18 spousal relationship, not including a restraining order solely
19 affecting property interests;

20 (14) has not, in the 10 years preceding the date of
21 application, been adjudicated as having engaged in delinquent
22 conduct violating a penal law of the grade of felony; and

23 (15) has not made any material misrepresentation, or
24 failed to disclose any material fact, in an application submitted
25 pursuant to Section 3 of this article or in a request for
26 application submitted pursuant to Section 4 of this article.

27 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,

1 is amended by adding Subsection (d) to read as follows:

2 (d)(1) For purposes of Subsection (a)(7) of this section, a
3 person is incapable of exercising sound judgment with respect to
4 the proper use and storage of a handgun if:

5 (A) the person has a medical or psychiatric
6 diagnosis, disorder, or condition that in the opinion of a
7 qualified psychiatrist or other clinically appropriate medical
8 professional causes or is likely to cause substantial impairment in
9 judgment, mood, perception, impulse control, or intellectual
10 ability; or

11 (B) the person had a diagnosis, disorder, or
12 condition described by Paragraph (A) of this subdivision that is in
13 remission:

14 (i) but is reasonably likely to redevelop
15 at a future time; or

16 (ii) because of treatment and the person
17 relies on continued treatment to avoid redevelopment.

18 (2) The following are evidence that a person has a
19 medical or psychiatric diagnosis, disorder, or condition described
20 by Subdivision (1)(A) of this subsection:

21 (A) involuntary psychiatric hospitalization in
22 the preceding five-year period;

23 (B) psychiatric hospitalization in the preceding
24 two-year period;

25 (C) inpatient or residential substance abuse
26 treatment in the preceding five-year period;

27 (D) diagnosis in the preceding five-year period

1 by a psychiatrist or other clinically appropriate medical
2 professional that the person is dependent on alcohol, a controlled
3 substance, or a similar substance; or

4 (E) diagnosis at any time by a psychiatrist or
5 other clinically appropriate medical professional that the person
6 has or has had:

7 (i) schizophrenia, schizoaffective
8 disorder, delusional disorder, shared psychotic disorder, psychotic
9 disorder caused by a chronic medical condition or defect, or a
10 substantially similar disorder;

11 (ii) bipolar disorder;

12 (iii) chronic dementia, including
13 Alzheimer's dementia, whether caused by illness, brain defect, or
14 brain injury;

15 (iv) dissociative identity disorder;

16 (v) intermittent explosive disorder;

17 (vi) antisocial personality disorder;

18 (vii) schizotypal personality disorder;

19 (viii) borderline personality disorder; or

20 (ix) any diagnosis that is substantially
21 clinically similar to a diagnosis listed in this paragraph, but
22 titled differently because of changing diagnostic nomenclature.

23 SECTION 3. Section 3(a), Article 4413(29ee), Revised
24 Statutes, is amended to read as follows:

25 (a) An applicant for a license to carry a concealed handgun
26 must submit to the director's designee described by Section 5 of
27 this article:

1 (1) a completed application on a form provided by the
2 department that requires only the information listed in Subsection
3 (b) of this section;

4 (2) two recent color passport photographs of the
5 applicant;

6 (3) a certified copy of the applicant's birth
7 certificate or certified proof of age;

8 (4) proof of residency in this state;

9 (5) two complete sets of legible and classifiable
10 fingerprints of the applicant taken by a person [~~employed-by-a-law~~
11 ~~enforcement-agency--who--is~~] appropriately trained in recording
12 fingerprints who is employed by a law enforcement agency or by a
13 private entity designated by a law enforcement agency as an entity
14 qualified to take fingerprints of an applicant for a license under
15 this article;

16 (6) a nonrefundable application and license fee of
17 \$140 paid to the department;

18 (7) a handgun proficiency certificate described by
19 Section 17 of this article;

20 (8) an affidavit signed by the applicant stating that
21 the applicant:

22 (A) has read and understands each provision of
23 this article that creates an offense under the laws of this state
24 and each provision of the laws of this state related to use of
25 deadly force; and

26 (B) fulfills all the eligibility requirements
27 listed under Section 2 of this article; and

1 (9) a form executed by the applicant that authorizes
2 the director to make an inquiry into any noncriminal history
3 records that are necessary to determine the applicant's eligibility
4 for a license under Section 2(a) of this article.

5 SECTION 4. Section 5(b), Article 4413(29ee), Revised
6 Statutes, is amended to read as follows:

7 (b) The director's designee as needed shall conduct an
8 additional criminal history record check of the applicant and an
9 investigation of the applicant's local official records to verify
10 the accuracy of the application materials. The scope of the record
11 check and the investigation are at the sole discretion of the
12 department, except that the director's designee shall complete the
13 record check and investigation not later than 60 days after the
14 date the department receives the application materials. The
15 department shall send a fingerprint card to the Federal Bureau of
16 Investigation for a national criminal history check of the
17 applicant. On completion of the investigation, the director's
18 designee shall return all materials and the result of the
19 investigation to the appropriate division of the department at its
20 Austin headquarters. The director's designee may submit to the
21 appropriate division of the department, at the department's Austin
22 headquarters, along with the application materials a written
23 recommendation for disapproval of the application, accompanied by
24 an affidavit stating personal knowledge or naming persons with
25 personal knowledge of a ground for denial under Section 2 of this
26 article. The director's designee in the appropriate geographical
27 area may also submit the application and the recommendation that

1 the license be issued. On receipt at the department's Austin
2 headquarters of the application materials and the result of the
3 investigation by the director's designee, the department shall
4 conduct any further record check or investigation the department
5 determines is necessary based on the recommendation of the
6 director's designee, except that the department shall complete the
7 record check and investigation not later than 180 days after the
8 date the department receives the application materials from the
9 applicant.

10 SECTION 5. Section 6(b), Article 4413(29ee), Revised
11 Statutes, is amended to read as follows:

12 (b)[(1)] Not [~~After--January--17--1997--the--department--not~~]
13 later than the 60th day after the date of the receipt by the
14 director's designee of the completed application materials, the
15 department shall:

16 (1) [(A)] issue the license; [~~or~~]

17 (2) [(B)] notify the applicant in writing that the
18 application was denied:

19 (A) [(1)] on the grounds that the applicant
20 failed to qualify under the criteria listed in Section 2 of this
21 article;

22 (B) [(2)] based on the affidavit of the
23 director's designee submitted to the department under Section 5(b)
24 of this article; or

25 (C) [(3)] based on the affidavit of the
26 qualified handgun instructor submitted to the department under
27 Section 17(c) of this article; or

1 (3) notify the applicant in writing that the
2 department is unable to make a determination regarding the issuance
3 or denial of a license to the applicant within the 60-day period
4 prescribed by this subsection and include in that notification an
5 explanation of the reason for the inability and an estimation of
6 the amount of time the department will need to make the
7 determination.

8 ~~[(2)--Between--the--effective--date--of--this--article--and~~
9 ~~December-31-1996,--the--department--shall--perform--the--duties--set--out~~
10 ~~in--this--subsection--not--later--than--the--90th--day--after--the--date--of~~
11 ~~the--receipt--by--the--director's--designee--of--the--completed--application~~
12 ~~materials.]~~

13 SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee),
14 Revised Statutes, are amended and relettered to read as follows:

15 (g) ~~[On--a--demand--by--a--magistrate--or--a--peace--officer--that--a~~
16 ~~license--holder--display--the--license--holder's--handgun--license,--the~~
17 ~~license--holder--shall--display--both--the--license--and--the--license~~
18 ~~holder's--driver's--license--or--identification--certificate--issued--by~~
19 ~~the--department.]~~

20 ~~[(h)]~~ If a license holder is carrying a handgun on or about
21 the license holder's person when a magistrate or a peace officer
22 demands that the license holder display identification, the license
23 holder shall display both the license holder's driver's license or
24 identification certificate issued by the department and the license
25 holder's handgun license. A person who fails or refuses to display
26 the license and identification as required by this subsection is
27 subject to suspension of the person's license as provided by

1 Section 13 of this article.

2 (h) [††] A person commits an offense if the person fails or
3 refuses to display the license and identification as required by
4 Subsection (g) [or-†h] of this section after previously having had
5 the person's license suspended for a violation of that subsection.

6 An offense under this subsection is a Class B misdemeanor.

7 SECTION 7. Section 12(a), Article 4413(29ee), Revised
8 Statutes, is amended to read as follows:

9 (a) A license may be revoked under this section if the
10 license holder:

11 (1) was not entitled to the license at the time it was
12 issued;

13 (2) gave false information on the application;

14 (3) subsequently becomes ineligible for a license
15 under Section 2 of this article, unless the sole basis for the
16 ineligibility is that the license holder is charged with the
17 commission of a Class A or Class B misdemeanor or an offense under
18 Section 42.01, Penal Code, or of a felony under an information or
19 indictment; [or]

20 (4) is convicted of an offense under Section 46.035,
21 Penal Code; or

22 (5) is determined by the department to have engaged in
23 conduct constituting a reason to suspend a license listed in
24 Section 13(a) of this article after the person's license has been
25 previously suspended twice for the same reason.

26 SECTION 8. Sections 13(a) and (c), Article 4413(29ee),
27 Revised Statutes, are amended to read as follows:

1 (a) A license may be suspended under this section if the
2 license holder:

3 (1) is charged with the commission of a Class A or
4 Class B misdemeanor or an offense [~~convicted-of-disorderly-conduct~~
5 ~~punishable-as-a-Class-C-misdemeanor~~] under Section 42.01, Penal
6 Code, or of a felony under an information or indictment;

7 (2) fails to display a license as required by Section
8 6 of this article;

9 (3) fails to notify the department of a change of
10 address or name as required by Section 8 of this article;

11 (4) carries a concealed handgun under the authority of
12 this article of a different category than the license holder is
13 licensed to carry; or

14 (5) [~~has--been--charged---by---indictment---with---the~~
15 ~~commission--of--an--offense--that--would--make--the--license-holder~~
16 ~~ineligible-for-a-license-on-conviction;-or~~

17 [~~6~~] fails to return a previously issued license
18 after a license is modified as required by Section 10(d) of this
19 article.

20 (c) A license may be suspended under this section:

21 (1) for 30 days, if the person's license is subject to
22 suspension for a reason listed in Subsection (a)(3), (4), or (5) of
23 this section, except as provided by Subdivision (3) of this
24 subsection;

25 (2) for 90 days, if the person's license is subject to
26 suspension for a reason listed in Subsection (a)(2) of this
27 section, except as provided by Subdivision (3) of this subsection;

1 (3) for not less than one year and not more than three
2 years if the person's license is subject to suspension for a reason
3 listed in Subsection (a) of this section, other than the reason
4 listed in Subsection (a)(1) of this section, and the person's
5 license has been previously suspended for the same reason; or
6 (4) until dismissal of the charges, if the person's
7 license is subject to suspension for the reason listed in
8 Subsection (a)(1) of this section.

9 SECTION 9. Section 17(c), Article 4413(29ee), Revised
10 Statutes, is amended to read as follows:

11 (c) A qualified handgun instructor may submit to the
12 department a written recommendation for disapproval of the
13 application for a license, renewal, or modification of a license,
14 accompanied by an affidavit stating personal knowledge or naming
15 persons with personal knowledge of facts that lead the instructor
16 to believe that an applicant is not qualified for handgun
17 proficiency certification. The department may use a written
18 recommendation submitted under this subsection as the basis for
19 denial of a license only if the department determines that the
20 recommendation is made in good faith and is supported by a
21 preponderance of the evidence. The department shall make a
22 determination under this subsection not later than the 45th day
23 after the date the department receives the written recommendation.
24 The 60-day period in which the department must take action under
25 Section 6(b) of this article is extended one day for each day a
26 determination is pending under this subsection.

27 SECTION 10. Sections 18(c) and (f), Article 4413(29ee),

1 Revised Statutes, are amended to read as follows:

2 (c) The department shall provide training to an individual
3 who applies for certification as a qualified handgun instructor.
4 An applicant shall pay a fee of \$100 to the department for the
5 training. An applicant must take and successfully complete the
6 training offered by the department and pay the training fee before
7 the department may certify the applicant as a qualified handgun
8 instructor. If the [The] department certifies a person as a
9 qualified handgun instructor, the department shall at that time
10 issue to the person [~~waive the requirements regarding a handgun~~
11 ~~proficiency certification under Section 17 of this article for an~~
12 ~~applicant for~~] a license to carry a concealed handgun under the
13 authority of this article [~~who takes and successfully completes~~
14 ~~training under this subsection and pays the training fee~~]. The
15 department by rule may prorate or waive the training fee for an
16 employee of another governmental entity.

17 (f) If the department determines that a reason exists to
18 revoke, suspend, or deny a license to carry a concealed handgun
19 with respect to a person who is a qualified handgun instructor or
20 an applicant for certification as a qualified handgun instructor,
21 the department shall take that action against the person's license
22 to carry a concealed handgun and the person's certification as a
23 qualified handgun instructor [~~regardless of whether the person has~~
24 ~~a license issued under this article to carry a concealed handgun~~].

25 SECTION 11. Sections 31(a) and (c), Article 4413(29ee),
26 Revised Statutes, are amended to read as follows:

27 (a) A business that has a permit or license issued under

1 Chapter 25, 28, 32, ~~[or]~~ 69, or 74, Alcoholic Beverage Code, and
2 that derives 51 percent or more of its income from the sale of
3 alcoholic beverages for on-premises consumption shall prominently
4 display at each entrance to the business premises a sign that
5 complies with the requirements of Subsection (c) of this section.

6 (c) The sign required under Subsections (a) and (b) of this
7 section must give notice in both English and Spanish that it is
8 unlawful for a person licensed under this article to carry a
9 handgun on the premises. The sign must appear in contrasting
10 colors with block letters at least one inch in height and must
11 include on its face the number "51" printed in solid red at least
12 five inches in height. The sign shall be displayed in a
13 conspicuous manner clearly visible to the public.

14 SECTION 12. Section 35, Article 4413(29ee), Revised
15 Statutes, is amended to read as follows:

16 Sec. 35. RECIPROCAL LICENSE. (a) On application by a
17 person who has a valid license to carry a concealed handgun issued
18 by another state, the department may issue to the person a license
19 under this article without requiring that the person meet
20 eligibility requirements or pay fees otherwise imposed under this
21 article, but only if the department determines that:

22 (1) the ~~[eligibility--requirements--imposed--by--the]~~
23 other state recognizes a license issued under ~~[are-at-least-as~~
24 ~~rigorous-as-the-requirements-imposed--by]~~ this article when the
25 license holder is in that state; or ~~[and]~~

26 (2) the other state provides reciprocal licensing
27 privileges to a person who holds a license issued under this

1 article and applies for a license in the other state.

2 (b) On application by a person who is a legal resident of a
3 state that does not provide for the issuance of a license to carry
4 a concealed handgun to eligible applicants, the department may
5 issue to the person a license under this article provided that the
6 person meets the eligibility requirements, other than the residency
7 requirement, and pays the fees imposed under this article for a
8 legal resident of this state.

9 SECTION 13. Section 11.61(e), Alcoholic Beverage Code, is
10 amended to read as follows:

11 (e) Except as provided by Subsection (f), the commission or
12 administrator shall cancel an original or renewal permit if it is
13 found, after notice and hearing, that the permittee knowingly
14 allowed a person to possess a firearm in a building on the licensed
15 premises. This subsection does not apply to a person:

16 (1) who holds a security officer commission issued by
17 the Texas Board of Private Investigators and Private Security
18 Agencies, if:

19 (A) the person is engaged in the performance of
20 the person's duties as a security officer;

21 (B) the person is wearing a distinctive uniform;
22 and

23 (C) the weapon is in plain view;

24 (2) who is a peace officer; [or]

25 (3) who is a permittee or an employee of a permittee
26 if the person is supervising the operation of the premises; or

27 (4) who possesses a concealed handgun of the same

1 category the person is licensed to carry under Article 4413(29ee),
2 Revised Statutes, unless the person is on the premises of a
3 business described by Section 46.035(b)(1), Penal Code.

4 SECTION 14. Section 61.71(f), Alcoholic Beverage Code, is
5 amended to read as follows:

6 (f) Except as provided by Subsection (g), the commission or
7 administrator shall cancel an original or renewal dealer's
8 on-premises or off-premises license if it is found, after notice
9 and hearing, that the licensee knowingly allowed a person to
10 possess a firearm in a building on the licensed premises. This
11 subsection does not apply to a person:

12 (1) who holds a security officer commission issued by
13 the Texas Board of Private Investigators and Private Security
14 Agencies, if:

15 (A) the person is engaged in the performance of
16 the person's duties as a security officer;

17 (B) the person is wearing a distinctive uniform;
18 and

19 (C) the weapon is in plain view;

20 (2) who is a peace officer; [or]

21 (3) who is a licensee or an employee of a licensee if
22 the person is supervising the operation of the premises; or

23 (4) who possesses a concealed handgun of the same
24 category the person is licensed to carry under Article 4413(29ee),
25 Revised Statutes, unless the person is on the premises of a
26 business described by Section 46.035(b)(1), Penal Code.

27 SECTION 15. Section 12.092(b), Health and Safety Code, as

1 added by Chapter 165, Acts of the 74th Legislature, Regular
2 Session, 1995, is amended to read as follows:

3 (b) The medical advisory board shall assist the Department
4 of Public Safety of the State of Texas in determining whether:

5 (1) an applicant for a driver's license or a license
6 holder is capable of safely operating a motor vehicle; or

7 (2) an applicant for or holder of a license to carry a
8 concealed handgun under the authority of Article 4413(29ee),
9 Revised Statutes, is capable of exercising sound judgment with
10 respect to the proper use and storage of a handgun.

11 SECTION 16. Sections 12.095(a), (c), and (d), Health and
12 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
13 Regular Session, 1995, are amended to read as follows:

14 (a) If the Department of Public Safety of the State of Texas
15 requests an opinion or recommendation from the medical advisory
16 board as to the ability of an applicant or license holder to
17 operate a motor vehicle safely or to exercise sound judgment with
18 respect to the proper use and storage of a handgun, the
19 commissioner or a person designated by the commissioner shall
20 convene a panel to consider the case or question submitted by that
21 department.

22 (c) Each panel member shall prepare an individual
23 independent written report for the Department of Public Safety of
24 the State of Texas that states the member's opinion as to the
25 ability of the applicant or license holder to operate a motor
26 vehicle safely or to exercise sound judgment with respect to the
27 proper use and storage of a handgun, as appropriate. In the report

1 the panel member may also make recommendations relating to that
2 department's subsequent action.

3 (d) In its deliberations, a panel may examine any medical
4 record or report that contains material that may be relevant to the
5 ability of the applicant or license holder [~~to--operate--a--motor~~
6 ~~vehicle-safety~~].

7 SECTION 17. Chapter 30, Penal Code, is amended by adding
8 Section 30.06 to read as follows:

9 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED
10 HANDGUN. (a) A license holder commits an offense if the license
11 holder:

12 (1) carries a handgun under the authority of Article
13 4413(29ee), Revised Statutes, on property of another without
14 effective consent; and

15 (2) received notice that:

16 (A) entry on the property by a license holder
17 with a concealed handgun was forbidden; or

18 (B) remaining on the property with a concealed
19 handgun was forbidden and failed to depart.

20 (b) For purposes of this section, a person receives notice
21 if the owner of the property or someone with apparent authority to
22 act for the owner provides notice to the person by oral and written
23 communication.

24 (c) In this section:

25 (1) "Entry" has the meaning assigned by Section
26 30.05(b).

27 (2) "License holder" has the meaning assigned by

1 Section 46.035(f).

2 (d) An offense under this section is a Class A misdemeanor.

3 SECTION 18. Section 46.03, Penal Code, is amended by adding
4 Subsection (i) to read as follows:

5 (i) It is a defense to prosecution under Subsection (a)(1),
6 (2), or (4) that at the time of the commission of the offense:

7 (1) the actor possessed a concealed handgun of the
8 same category the actor was licensed to carry under Article
9 4413(29ee), Revised Statutes;

10 (2) the handgun was in a secure position in a motor
11 vehicle in which the actor was the driver or a passenger; and

12 (3) the vehicle was in a driveway, parking area, or
13 other part of the premises that reasonably appeared to be a place
14 intended for use as a driveway or parking area.

15 SECTION 19. Section 46.035(b), Penal Code, is amended to
16 read as follows:

17 (b) A license holder commits an offense if the license
18 holder intentionally, knowingly, or recklessly carries a handgun
19 under the authority of Article 4413(29ee), Revised Statutes,
20 regardless of whether the handgun is concealed, on or about the
21 license holder's person:

22 (1) on the premises of a business that has a permit or
23 license issued under Chapter 25, 28, 32, ~~[or]~~ 69, or 74, Alcoholic
24 Beverage Code, if the business derives 51 percent or more of its
25 income from the sale of alcoholic beverages for on-premises
26 consumption;

27 (2) on the premises where a high school, collegiate,

1 or professional sporting event or interscholastic event is taking
2 place, unless the license holder is a participant in the event and
3 a handgun is used in the event;

4 (3) on the premises of a correctional facility;

5 (4) on the premises of a hospital licensed under
6 Chapter 241, Health and Safety Code, or on the premises of a
7 nursing home licensed under Chapter 242, Health and Safety Code,
8 unless the license holder has written authorization of the hospital
9 or nursing home administration, as appropriate;

10 (5) in an amusement park; or

11 (6) on the premises of a church, synagogue, or other
12 established place of religious worship.

13 SECTION 20. Section 1(10), Article 4413(29ee), Revised
14 Statutes, is repealed.

15 SECTION 21. (a) The changes in law made by this Act in
16 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
17 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
18 amending Sections 12.092 and 12.095, Health and Safety Code, as
19 added by Chapter 165, Acts of the 74th Legislature, Regular
20 Session, 1995, apply only to a person's initial application for a
21 license to carry a concealed handgun under Article 4413(29ee),
22 Revised Statutes, if the application is made on or after the
23 effective date of this Act. A person who makes an initial
24 application for a license to carry a concealed handgun under
25 Article 4413(29ee), Revised Statutes, before the effective date of
26 this Act is covered by the law that existed when the application
27 was made, and the former law is continued in effect for that

1 purpose.

2 (b) The changes in law made by this Act in repealing Section
3 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
4 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
5 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
6 of the 74th Legislature, Regular Session, 1995, regarding the
7 revocation of a license to carry a handgun, apply to any revocation
8 proceeding initiated on or after the effective date of this Act.

9 SECTION 22. Not later than September 1, 1998, a person who
10 before the effective date of this Act was licensed to carry a
11 concealed handgun under Article 4413(29ee), Revised Statutes, and
12 whose license was revoked on the sole basis that the person was
13 charged with the commission of a Class A or Class B misdemeanor or
14 an offense under Section 42.01, Penal Code, or a felony under an
15 information or indictment may apply to the department to change the
16 status of the person's license in accordance with Sections 12 and
17 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
18 The Department of Public Safety shall promptly place the person's
19 license on suspension, if the charges against the person are still
20 pending, or reinstate the person's license, if the charges against
21 the person have been dismissed.

22 SECTION 23. The change in law made by this Act to Section
23 18, Article 4413(29ee), Revised Statutes, applies only to an
24 application for certification as a qualified handgun instructor
25 that is submitted to the Department of Public Safety on or after
26 the effective date of this Act. An application for certification
27 as a qualified handgun instructor submitted before the effective

1 date of this Act is covered by the law under Section 18, Article
2 4413(29ee), Revised Statutes, as it existed before amendment by
3 this Act, and the former law is continued in effect for this
4 purpose.

5 SECTION 24. The changes in law made by this Act to Sections
6 46.03 and 46.035, Penal Code, apply only to an offense committed on
7 or after the effective date of this Act. An offense committed
8 before the effective date of this Act is covered by the law in
9 effect when the offense was committed, and the former law is
10 continued in effect for that purpose. For purposes of this
11 section, an offense was committed before the effective date of this
12 Act if any element of the offense occurred before that date.

13 SECTION 25. This Act takes effect September 1, 1997.

14 SECTION 26. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

1st Printing

By Carter, Chisum, Allen, Hupp, Wilson,
et al.

H.B. No. 2909

Substitute the following for H.B. No. 2909:

By Carter

C.S.H.B. No. 2909

A BILL TO BE ENTITLED

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(a) of this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun [~~a person of~~

1 unsound-mind];

2 (8) has not, in the five years preceding the date of
3 application, been convicted of a Class A or Class B misdemeanor or
4 an offense under Section 42.01, Penal Code;

5 (9) is fully qualified under applicable federal and
6 state law to purchase a handgun;

7 (10) has not been finally determined to be delinquent
8 in making a child support payment administered or collected by the
9 attorney general;

10 (11) has not been finally determined to be delinquent
11 in the payment of a tax or other money collected by the
12 comptroller, state treasurer, tax collector of a political
13 subdivision of the state, Texas Alcoholic Beverage Commission, or
14 any other agency or subdivision of the state;

15 (12) has not been finally determined to be in default
16 on a loan made under Chapter 57, Education Code;

17 (13) is not currently restricted under a court
18 protective order or subject to a restraining order affecting the
19 spousal relationship, not including a restraining order solely
20 affecting property interests;

21 (14) has not, in the 10 years preceding the date of
22 application, been adjudicated as having engaged in delinquent
23 conduct violating a penal law of the grade of felony; and

24 (15) has not made any material misrepresentation, or
25 failed to disclose any material fact, in an application submitted
26 pursuant to Section 3 of this article or in a request for
27 application submitted pursuant to Section 4 of this article.

1 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,
2 is amended by adding Subsection (d) to read as follows:

3 (d)(1) For purposes of Subsection (a)(7) of this section, a
4 person is incapable of exercising sound judgment with respect to
5 the proper use and storage of a handgun if:

6 (A) the person has been diagnosed by a licensed
7 physician as suffering from a psychiatric disorder or condition
8 that causes or is likely to cause substantial impairment in
9 judgment, mood, perception, impulse control, or intellectual
10 ability;

11 (B) the person suffers from a psychiatric
12 disorder or condition described by Paragraph (A) of this
13 subdivision that:

14 (i) is in remission but is reasonably
15 likely to redevelop at a future time; or

16 (ii) requires continuous medical treatment
17 to avoid redevelopment;

18 (C) the person has been diagnosed by a licensed
19 physician or declared by a court to be incompetent to manage the
20 person's own affairs; or

21 (D) the person has entered in any criminal
22 proceeding a plea of not guilty by reason of insanity.

23 (2) The following are evidence that a person has a
24 psychiatric disorder or condition described by Subdivision (1)(A)
25 of this subsection:

26 (A) involuntary psychiatric hospitalization in
27 the preceding five-year period;

1 (B) psychiatric hospitalization in the preceding
2 two-year period;

3 (C) inpatient or residential substance abuse
4 treatment in the preceding five-year period;

5 (D) diagnosis in the preceding five-year period
6 by a licensed physician that the person is dependent on alcohol, a
7 controlled substance, or a similar substance; or

8 (E) diagnosis at any time by a licensed
9 physician that the person suffers or has suffered from a
10 psychiatric disorder or condition consisting of or relating to:

11 (i) schizophrenia or delusional disorder;

12 (ii) bipolar disorder;

13 (iii) chronic dementia, whether caused by
14 illness, brain defect, or brain injury;

15 (iv) dissociative identity disorder;

16 (v) intermittent explosive disorder; or

17 (vi) antisocial personality disorder.

18 SECTION 3. Section 3(a), Article 4413(29ee), Revised
19 Statutes, is amended to read as follows:

20 (a) An applicant for a license to carry a concealed handgun
21 must submit to the director's designee described by Section 5 of
22 this article:

23 (1) a completed application on a form provided by the
24 department that requires only the information listed in Subsection
25 (b) of this section;

26 (2) two recent color passport photographs of the
27 applicant;

1 (3) a certified copy of the applicant's birth
2 certificate or certified proof of age;

3 (4) proof of residency in this state;

4 (5) two complete sets of legible and classifiable
5 fingerprints of the applicant taken by a person [~~employed-by-a-law~~
6 ~~enforcement--agency--who--is~~] appropriately trained in recording
7 fingerprints who is employed by a law enforcement agency or by a
8 private entity designated by a law enforcement agency as an entity
9 qualified to take fingerprints of an applicant for a license under
10 this article;

11 (6) a nonrefundable application and license fee of
12 \$140 paid to the department;

13 (7) a handgun proficiency certificate described by
14 Section 17 of this article;

15 (8) an affidavit signed by the applicant stating that
16 the applicant:

17 (A) has read and understands each provision of
18 this article that creates an offense under the laws of this state
19 and each provision of the laws of this state related to use of
20 deadly force; and

21 (B) fulfills all the eligibility requirements
22 listed under Section 2 of this article; and

23 (9) a form executed by the applicant that authorizes
24 the director to make an inquiry into any noncriminal history
25 records that are necessary to determine the applicant's eligibility
26 for a license under Section 2(a) of this article.

27 SECTION 4. Section 5(b), Article 4413(29ee), Revised

Statutes, is amended to read as follows:

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than 60 days after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters. The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 2 of this article. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued. On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary based on the recommendation of the

1 director's designee, except that the department shall complete the
2 record check and investigation not later than 180 days after the
3 date the department receives the application materials from the
4 applicant.

5 SECTION 5. Section 6(b), Article 4413(29ee), Revised
6 Statutes, is amended to read as follows:

7 (b)[+] Not [~~After-January-17-1997--the--department--not~~]
8 later than the 60th day after the date of the receipt by the
9 director's designee of the completed application materials, the
10 department shall:

11 (1) [A+] issue the license; [or]

12 (2) [B+] notify the applicant in writing that the
13 application was denied:

14 (A) [+] on the grounds that the applicant
15 failed to qualify under the criteria listed in Section 2 of this
16 article;

17 (B) [+++] based on the affidavit of the
18 director's designee submitted to the department under Section 5(b)
19 of this article; or

20 (C) [+++] based on the affidavit of the
21 qualified handgun instructor submitted to the department under
22 Section 17(c) of this article; or

23 (3) notify the applicant in writing that the
24 department is unable to make a determination regarding the issuance
25 or denial of a license to the applicant within the 60-day period
26 prescribed by this subsection and include in that notification an
27 explanation of the reason for the inability and an estimation of

1 ~~the amount of time the department will need to make the~~
2 ~~determination.~~

3 ~~[(2)--Between the effective date of this article and~~
4 ~~December 31, 1996, the department shall perform the duties set out~~
5 ~~in this subsection not later than the 90th day after the date of~~
6 ~~the receipt by the director's designee of the completed application~~
7 ~~materials.]~~

8 SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee),
9 Revised Statutes, are amended and relettered to read as follows:

10 (g) ~~[On a demand by a magistrate or a peace officer that a~~
11 ~~license holder display the license holder's handgun license, the~~
12 ~~license holder shall display both the license and the license~~
13 ~~holder's driver's license or identification certificate issued by~~
14 ~~the department.]~~

15 ~~[(h)]~~ If a license holder is carrying a handgun on or about
16 the license holder's person when a magistrate or a peace officer
17 demands that the license holder display identification, the license
18 holder shall display both the license holder's driver's license or
19 identification certificate issued by the department and the license
20 holder's handgun license. A person who fails or refuses to display
21 the license and identification as required by this subsection is
22 subject to suspension of the person's license as provided by
23 Section 13 of this article.

24 (h) ~~[(i)]~~ A person commits an offense if the person fails or
25 refuses to display the license and identification as required by
26 Subsection (g) ~~[or (h)]~~ of this section after previously having had
27 the person's license suspended for a violation of that subsection.

1 An offense under this subsection is a Class B misdemeanor.

2 SECTION 7. Section 12(a), Article 4413(29ee), Revised
3 Statutes, is amended to read as follows:

4 (a) A license may be revoked under this section if the
5 license holder:

6 (1) was not entitled to the license at the time it was
7 issued;

8 (2) gave false information on the application;

9 (3) subsequently becomes ineligible for a license
10 under Section 2 of this article, unless the sole basis for the
11 ineligibility is that the license holder is charged with the
12 commission of a Class A or Class B misdemeanor or an offense under
13 Section 42.01, Penal Code, or of a felony under an information or
14 indictment; [or]

15 (4) is convicted of an offense under Section 46.035,
16 Penal Code; or

17 (5) is determined by the department to have engaged in
18 conduct constituting a reason to suspend a license listed in
19 Section 13(a) of this article after the person's license has been
20 previously suspended twice for the same reason.

21 SECTION 8. Sections 13(a) and (c), Article 4413(29ee),
22 Revised Statutes, are amended to read as follows:

23 (a) A license may be suspended under this section if the
24 license holder:

25 (1) is charged with the commission of a Class A or
26 Class B misdemeanor or an offense [~~convicted-of-disorderly--conduct~~
27 ~~punishable--as--a--Class--C-misdemeanor~~] under Section 42.01, Penal

1 Code, or of a felony under an information or indictment;

2 (2) fails to display a license as required by Section
3 6 of this article;

4 (3) fails to notify the department of a change of
5 address or name as required by Section 8 of this article;

6 (4) carries a concealed handgun under the authority of
7 this article of a different category than the license holder is
8 licensed to carry; or

9 (5) ~~[has---been---charged---by---indictment---with---the~~
10 ~~commission-of--an--offense--that--would--make--the--license--holder~~
11 ~~ineligible-for-a-license-on-conviction;-or~~

12 [+6+] fails to return a previously issued license
13 after a license is modified as required by Section 10(d) of this
14 article.

15 (c) A license may be suspended under this section:

16 (1) for 30 days, if the person's license is subject to
17 suspension for a reason listed in Subsection (a)(3), (4), or (5) of
18 this section, except as provided by Subdivision (3) of this
19 subsection;

20 (2) for 90 days, if the person's license is subject to
21 suspension for a reason listed in Subsection (a)(2) of this
22 section, except as provided by Subdivision (3) of this subsection;

23 (3) for not less than one year and not more than three
24 years if the person's license is subject to suspension for a reason
25 listed in Subsection (a) of this section, other than the reason
26 listed in Subsection (a)(1) of this section, and the person's
27 license has been previously suspended for the same reason; or

1 (4) until dismissal of the charges, if the person's
2 license is subject to suspension for the reason listed in
3 Subsection (a)(1) of this section.

4 SECTION 9. Section 17(c), Article 4413(29ee), Revised
5 Statutes, is amended to read as follows:

6 (c) A qualified handgun instructor may submit to the
7 department a written recommendation for disapproval of the
8 application for a license, renewal, or modification of a license,
9 accompanied by an affidavit stating personal knowledge or naming
10 persons with personal knowledge of facts that lead the instructor
11 to believe that an applicant is not qualified for handgun
12 proficiency certification. The department may use a written
13 recommendation submitted under this subsection as the basis for
14 denial of a license only if the department determines that the
15 recommendation is made in good faith and is supported by a
16 preponderance of the evidence. The department shall make a
17 determination under this subsection not later than the 45th day
18 after the date the department receives the written recommendation.
19 The 60-day period in which the department must take action under
20 Section 6(b) of this article is extended one day for each day a
21 determination is pending under this subsection.

22 SECTION 10. Sections 18(c) and (f), Article 4413(29ee),
23 Revised Statutes, are amended to read as follows:

24 (c) The department shall provide training to an individual
25 who applies for certification as a qualified handgun instructor.
26 An applicant shall pay a fee of \$100 to the department for the
27 training. An applicant must take and successfully complete the

1 training offered by the department and pay the training fee before
 2 the department may certify the applicant as a qualified handgun
 3 instructor. The department shall issue [~~waive--the--requirements~~
 4 ~~regarding--a--handgun-proficiency-certification-under-Section-17-of~~
 5 ~~this-article-for-an-applicant-for~~] a license to carry a concealed
 6 handgun under the authority of this article to any person who is
 7 certified as a qualified handgun instructor and who pays to the
 8 department a fee of \$100 in addition to [~~takes-and-successfully~~
 9 ~~completes-training-under-this-subsection--and--pays~~] the training
 10 fee. The department by rule may prorate or waive the training fee
 11 for an employee of another governmental entity.

12 (f) If the department determines that a reason exists to
 13 revoke, suspend, or deny a license to carry a concealed handgun
 14 with respect to a person who is a qualified handgun instructor or
 15 an applicant for certification as a qualified handgun instructor,
 16 the department shall take that action against the person's license
 17 to carry a concealed handgun, if the person is an applicant for or
 18 the holder of such a license, and the person's certification as a
 19 qualified handgun instructor [~~regardless-of-whether-the-person-has~~
 20 ~~a-license-issued-under-this-article-to-carry-a-concealed-handgun~~].

21 SECTION 11. Section 31, Article 4413(29ee), Revised
 22 Statutes, is amended by amending Subsections (a) and (c) and adding
 23 Subsection (d) to read as follows:

24 (a) A business that has a permit or license issued under
 25 Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic Beverage Code, and
 26 that derives 51 percent or more of its income from the sale of
 27 alcoholic beverages for on-premises consumption as determined by

1 the Texas Alcoholic Beverage Commission under Section 104.06,
2 Alcoholic Beverage Code, shall prominently display at each entrance
3 to the business premises a sign that complies with the requirements
4 of Subsection (c) of this section.

5 (c) The sign required under Subsections (a) and (b) of this
6 section must give notice in both English and Spanish that it is
7 unlawful for a person licensed under this article to carry a
8 handgun on the premises. The sign must appear in contrasting
9 colors with block letters at least one inch in height and must
10 include on its face the number "51" printed in solid red at least
11 five inches in height. The sign shall be displayed in a
12 conspicuous manner clearly visible to the public.

13 (d) A business that has a permit or license issued under the
14 Alcoholic Beverage Code and that is not required to display a sign
15 under this section may be required to display a sign under Section
16 11.041 or Section 61.11, Alcoholic Beverage Code.

17 SECTION 12. Section 35, Article 4413(29ee), Revised
18 Statutes, is amended to read as follows:

19 Sec. 35. NONRESIDENT [RECIPEAL] LICENSE. (a) The
20 department by rule shall establish a procedure for a person who is
21 a legal resident of a state that does not provide for the issuance
22 of a license to carry a concealed handgun and who meets the
23 eligibility requirements of this article other than the residency
24 requirement established by Section 2(a)(1) of this article to
25 obtain a license under this article. The procedure shall include
26 payment of a fee in an amount sufficient to recover the average
27 cost to the department of obtaining a criminal history record check

1 and investigation on a nonresident applicant.

2 (b) The department shall negotiate an agreement with any
3 other state that provides for the issuance of a license to carry a
4 concealed handgun under which a license issued by the other state
5 is recognized in this state [~~On-application-by-a-person-who--has--a~~
6 ~~valid-license-to-carry-a-concealed-handgun-issued-by-another-state,~~
7 ~~the-department-may-issue-to-the-person-a-license-under-this-article~~
8 ~~without--requiring-that-the-person-meet-eligibility-requirements-or~~
9 ~~pay-fees-otherwise-imposed-under-this-article,--but--only]~~ if the
10 department determines that:

11 (1) the eligibility requirements imposed by the other
12 state include background check requirements that meet or exceed
13 background check [~~are--at--least-as-rigorous-as-the~~] requirements
14 imposed by federal law as a condition of receiving a handgun [~~this~~
15 ~~article~~]; and

16 (2) the other state recognizes [~~provides-reciprocal~~
17 ~~licensing-privileges-to-a-person-who-holds~~] a license issued in
18 [~~under~~] this [~~article--and--applies--for--a-license-in-the-other~~]
19 state.

20 SECTION 13. Chapter 11, Alcoholic Beverage Code, is amended
21 by adding Section 11.041 to read as follows:

22 Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a
23 permit who is not otherwise required to display a sign under
24 Section 31, Article 4413(29ee), Revised Statutes, shall display in
25 a prominent place on the permit holder's premises a sign giving
26 notice that it is unlawful for a person to carry a weapon on the
27 premises unless the weapon is a concealed handgun of the same

1 category the person is licensed to carry under Article 4413(29ee),
2 Revised Statutes.

3 (b) The sign must be at least 6 inches high and 14 inches
4 wide, must appear in contrasting colors, and shall be displayed in
5 a conspicuous manner clearly visible to the public. The commission
6 or administrator may require the permit holder to also display the
7 sign in a language other than English if it can be observed or
8 determined that a substantial portion of the expected customers
9 speak the other language as their familiar language.

10 SECTION 14. Section 11.61(e), Alcoholic Beverage Code, is
11 amended to read as follows:

12 (e) Except as provided by Subsection (f), the commission or
13 administrator shall cancel an original or renewal permit if it is
14 found, after notice and hearing, that the permittee knowingly
15 allowed a person to possess a firearm in a building on the licensed
16 premises. This subsection does not apply to a person:

17 (1) who holds a security officer commission issued by
18 the Texas Board of Private Investigators and Private Security
19 Agencies, if:

20 (A) the person is engaged in the performance of
21 the person's duties as a security officer;

22 (B) the person is wearing a distinctive uniform;
23 and

24 (C) the weapon is in plain view;

25 (2) who is a peace officer; [or]

26 (3) who is a permittee or an employee of a permittee
27 if the person is supervising the operation of the premises; or

1 (4) who possesses a concealed handgun of the same
2 category the person is licensed to carry under Article 4413(29ee),
3 Revised Statutes, unless the person is on the premises of a
4 business described by Section 46.035(b)(1), Penal Code.

5 SECTION 15. Section 61.11, Alcoholic Beverage Code, is
6 amended to read as follows:

7 Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a
8 license who is not otherwise required to display a sign under
9 Section 31, Article 4413(29ee), Revised Statutes, shall display in
10 a prominent place on the license holder's [his] premises a sign
11 giving notice that it is unlawful for a person to carry a weapon on
12 the premises unless the weapon is a concealed handgun of the same
13 category the person is licensed to carry under Article 4413(29ee),
14 Revised Statutes.

15 (b) The sign must be [7] at least 6 inches high and 14
16 inches wide, must appear in contrasting colors, and shall be
17 displayed in a conspicuous manner clearly visible to the public
18 [stating:---FELONY:---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN
19 YEARS+-IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING
20 WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD7-SERVED7-OR-CONSUMED].

21 The commission or administrator may require the holder of the
22 license to also display the sign in a language other than English
23 if it can be observed or determined that a substantial portion of
24 the expected customers speak the other language as their familiar
25 language.

26 [(b) --A--licensee--who--violates--this--section---commits---a
27 misdemeanor-punishable-by-a-fine-of-not-more-than-\$25-.]

1 SECTION 16. Section 61.71(f), Alcoholic Beverage Code, is
2 amended to read as follows:

3 (f) Except as provided by Subsection (g), the commission or
4 administrator shall cancel an original or renewal dealer's
5 on-premises or off-premises license if it is found, after notice
6 and hearing, that the licensee knowingly allowed a person to
7 possess a firearm in a building on the licensed premises. This
8 subsection does not apply to a person:

9 (1) who holds a security officer commission issued by
10 the Texas Board of Private Investigators and Private Security
11 Agencies, if:

12 (A) the person is engaged in the performance of
13 the person's duties as a security officer;

14 (B) the person is wearing a distinctive uniform;
15 and

16 (C) the weapon is in plain view;

17 (2) who is a peace officer; ~~[or]~~

18 (3) who is a licensee or an employee of a licensee if
19 the person is supervising the operation of the premises; or

20 (4) who possesses a concealed handgun of the same
21 category the person is licensed to carry under Article 4413(29ee),
22 Revised Statutes, unless the person is on the premises of a
23 business described by Section 46.035(b)(1), Penal Code.

24 SECTION 17. Chapter 104, Alcoholic Beverage Code, is amended
25 by adding Section 104.06 to read as follows:

26 Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the
27 issuance and renewal of a license or permit that allows on-premises

1 consumption of any alcoholic beverage the commission shall
2 determine whether the holder receives, or for the issuance of a
3 license or permit is to receive, 51 percent or more of the gross
4 receipts of the premises for which the license or permit is issued
5 from the holder's sale or service of alcoholic beverages for
6 on-premises consumption.

7 (b) The commission shall:

8 (1) adopt rules for making a determination under
9 Subsection (a); and

10 (2) require a holder of a license or permit to provide
11 any information or document that the commission needs to make a
12 determination.

13 (c) If the commission makes a determination under Subsection
14 (a) that a holder of a license or permit receives 51 percent or
15 more of the gross receipts of the premises from the sale or service
16 of alcoholic beverages, the holder shall comply with the
17 requirements of Section 31, Article 4413(29ee), Revised Statutes,
18 and shall continue to comply with those requirements until the
19 commission determines that the holder receives less than 51 percent
20 of the gross receipts of the premises from the sale or service of
21 alcoholic beverages for on-premises consumption.

22 SECTION 18. Section 12.092(b), Health and Safety Code, as
23 added by Chapter 165, Acts of the 74th Legislature, Regular
24 Session, 1995, is amended to read as follows:

25 (b) The medical advisory board shall assist the Department
26 of Public Safety of the State of Texas in determining whether:

27 (1) an applicant for a driver's license or a license

1 holder is capable of safely operating a motor vehicle; or

2 (2) an applicant for or holder of a license to carry a
3 concealed handgun under the authority of Article 4413(29ee),
4 Revised Statutes, is capable of exercising sound judgment with
5 respect to the proper use and storage of a handgun.

6 SECTION 19. Sections 12.095(a), (c), and (d), Health and
7 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
8 Regular Session, 1995, are amended to read as follows:

9 (a) If the Department of Public Safety of the State of Texas
10 requests an opinion or recommendation from the medical advisory
11 board as to the ability of an applicant or license holder to
12 operate a motor vehicle safely or to exercise sound judgment with
13 respect to the proper use and storage of a handgun, the
14 commissioner or a person designated by the commissioner shall
15 convene a panel to consider the case or question submitted by that
16 department.

17 (c) Each panel member shall prepare an individual
18 independent written report for the Department of Public Safety of
19 the State of Texas that states the member's opinion as to the
20 ability of the applicant or license holder to operate a motor
21 vehicle safely or to exercise sound judgment with respect to the
22 proper use and storage of a handgun, as appropriate. In the report
23 the panel member may also make recommendations relating to that
24 department's subsequent action.

25 (d) In its deliberations, a panel may examine any medical
26 record or report that contains material that may be relevant to the
27 ability of the applicant or license holder [~~to operate a motor~~

1 ~~vehicle-safety~~].

2 SECTION 20. Chapter 30, Penal Code, is amended by adding
3 Section 30.06 to read as follows:

4 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED
5 HANDGUN. (a) A license holder commits an offense if the license
6 holder:

7 (1) carries a handgun under the authority of Article
8 4413(29ee), Revised Statutes, on property of another without
9 effective consent; and

10 (2) received notice that:

11 (A) entry on the property by a license holder
12 with a concealed handgun was forbidden; or

13 (B) remaining on the property with a concealed
14 handgun was forbidden and failed to depart.

15 (b) For purposes of this section, a person receives notice
16 if the owner of the property or someone with apparent authority to
17 act for the owner provides notice to the person by oral and written
18 communication.

19 (c) In this section:

20 (1) "Entry" has the meaning assigned by Section
21 30.05(b).

22 (2) "License holder" has the meaning assigned by
23 Section 46.035(f).

24 (d) An offense under this section is a Class A misdemeanor.

25 SECTION 21. Section 46.02, Penal Code, is amended to read as
26 follows:

27 Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person

1 commits an offense if he intentionally, knowingly, or recklessly
2 carries on or about his person a handgun, illegal knife, or club.

3 (b) [~~It is a defense to prosecution under this section--that~~
4 ~~the actor was, at the time of the commission of the offense:~~

5 [~~(1)--in the actual discharge of his official duties as~~
6 ~~a member of the armed forces or state military forces as defined by~~
7 ~~Section 431.001, Government Code, or as a guard employed by a penal~~
8 ~~institution;~~

9 [~~(2)--on his own premises or premises under his control~~
10 ~~unless--he is an employee or agent of the owner of the premises and~~
11 ~~his primary responsibility is to act in the capacity of a--security~~
12 ~~guard to protect persons or property, in which event he must comply~~
13 ~~with Subdivision (5);~~

14 [~~(3)--traveling;~~

15 [~~(4)--engaging in--lawful--hunting,--fishing, or other~~
16 ~~sporting activity on the immediate premises where the--activity--is~~
17 ~~conducted,--or--was--directly en route between the premises and the~~
18 ~~actor's residence, if the weapon is a type--commonly--used--in--the~~
19 ~~activity;~~

20 [~~(5)--a--person who holds a security officer commission~~
21 ~~issued by the Texas Board--of--Private--Investigators--and--Private~~
22 ~~Security Agencies, if:~~

23 [~~(A)--he--is--engaged--in--the performance of his~~
24 ~~duties as a security officer or traveling to and from his place--of~~
25 ~~assignment;~~

26 [~~(B)--he is wearing a distinctive uniform; and~~

27 [~~(C)--the weapon is in plain view; or~~

1 [(7)--carrying--a--concealed--handgun--and--a--valid--license
2 issued--under--Article--4413(29ee),--Revised--Statutes,--to--carry--a
3 concealed--handgun--of--the--same--category--as--the--handgun--the--person--is
4 carrying.

5 [(7)--a--person--who--holds--a--security--officer--commission
6 and--a--personal--protection--authorization--issued--by--the--Texas--Board
7 of--Private--Investigators--and--Private--Security--Agencies--and--who--is
8 providing--personal--protection--under--the--Private--Investigators--and
9 Private--Security--Agencies--Act--(Article--4413(29bb),--Vernon's--Texas
10 Civil--Statutes).

11 [(7)--a--holder--of--an--alcoholic--beverage--permit--or
12 license--or--an--employee--of--a--holder--of--an--alcoholic--beverage--permit
13 or--license--if--the--actor--is--supervising--the--operation--of--the
14 permitted--or--licensed--premises.

15 [(c)--It--is--a--defense--to--prosecution--under--this--section--for
16 the--offense--of--carrying--a--club--that--the--actor--was,--at--the--time--of
17 the--commission--of--the--offense,--a--noncommissioned--security--guard--at
18 an--institution--of--higher--education--who--carried--a--nightstick--or
19 similar--club,--and--who--had--undergone--15--hours--of--training--in--the
20 proper--use--of--the--club,--including--at--least--seven--hours--of--training
21 in--the--use--of--the--club--for--nonviolent--restraint.--For--the--purposes
22 of--this--section,--"nonviolent--restraint"--means--the--use--of--reasonable
23 force,--not--intended--and--not--likely--to--inflict--bodily--injury.

24 [(d)--It--is--a--defense--to--prosecution--under--this--section--for
25 the--offense--of--carrying--a--firearm--or--carrying--a--club--that--the--actor
26 was,--at--the--time--of--the--commission--of--the--offense,--a--public
27 security--officer--employed--by--the--adjutant--general--under--Section

1 ~~431.029,--Government--Code,--and--was--performing--official--duties--or~~
2 ~~traveling--to--or--from--a--place--of--duty.~~

3 ~~[(e)]~~ Except as provided by Subsection (c) ~~[(f)]~~, an offense
4 under this section is a Class A misdemeanor.

5 (c) ~~[(f)]~~ An offense under this section is a felony of the
6 third degree if the offense is committed on any premises licensed
7 or issued a permit by this state for the sale of alcoholic
8 beverages.

9 SECTION 22. Sections 46.03(b) and (c), Penal Code, are
10 amended to read as follows:

11 (b) It is a defense to prosecution under Subsections
12 (a)(1)-(4) that the actor possessed a firearm while in the actual
13 discharge of his official duties as a ~~[peace-officer--or--a]~~ member
14 of the armed forces or national guard or a guard employed by a
15 penal institution, or an officer of the court.

16 (c) In this section:

17 (1) "Premises" has the meaning assigned by Section
18 46.035.

19 (2) "Secured [~~"secured~~] area" means an area of an
20 airport terminal building to which access is controlled by the
21 inspection of persons and property under federal law.

22 SECTION 23. Section 46.035(b), Penal Code, is amended to
23 read as follows:

24 (b) A license holder commits an offense if the license
25 holder intentionally, knowingly, or recklessly carries a handgun
26 under the authority of Article 4413(29ee), Revised Statutes,
27 regardless of whether the handgun is concealed, on or about the

license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, [or] 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

SECTION 24. Section 46.15, Penal Code, is amended to read as follows:

Sec. 46.15. NONAPPLICABILITY [TO-----PEACE-----OFFICERS].

(a) Sections 46.02 and 46.03 do not apply to peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

1 (b) Section 46.02 does not apply to a person who:

2 (1) is in the actual discharge of official duties as a
3 member of the armed forces or state military forces as defined by
4 Section 431.001, Government Code, or as a guard employed by a penal
5 institution;

6 (2) is on the person's own premises or premises under
7 the person's control unless the person is an employee or agent of
8 the owner of the premises and the person's primary responsibility
9 is to act in the capacity of a security guard to protect persons or
10 property, in which event the person must comply with Subdivision
11 (5);

12 (3) is traveling;

13 (4) is engaging in lawful hunting, fishing, or other
14 sporting activity on the immediate premises where the activity is
15 conducted, or is directly en route between the premises and the
16 actor's residence, if the weapon is a type commonly used in the
17 activity;

18 (5) holds a security officer commission issued by the
19 Texas Board of Private Investigators and Private Security Agencies,
20 if:

21 (A) the person is engaged in the performance of
22 the person's duties as a security officer or traveling to and from
23 the person's place of assignment;

24 (B) the person is wearing a distinctive uniform;
25 and

26 (C) the weapon is in plain view;

27 (6) is carrying a concealed handgun and a valid

1 license issued under Article 4413(29ee), Revised Statutes, to carry
2 a concealed handgun of the same category as the handgun the person
3 is carrying;

4 (7) holds a security officer commission and a personal
5 protection authorization issued by the Texas Board of Private
6 Investigators and Private Security Agencies and who is providing
7 personal protection under the Private Investigators and Private
8 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
9 Statutes); or

10 (8) holds an alcoholic beverage permit or license or
11 is an employee of a holder of an alcoholic beverage permit or
12 license if the person is supervising the operation of the permitted
13 or licensed premises.

14 (c) The provision of Section 46.02 prohibiting the carrying
15 of a club does not apply to a noncommissioned security guard at an
16 institution of higher education who carries a nightstick or similar
17 club, and who has undergone 15 hours of training in the proper use
18 of the club, including at least seven hours of training in the use
19 of the club for nonviolent restraint. For the purposes of this
20 subsection, "nonviolent restraint" means the use of reasonable
21 force, not intended and not likely to inflict bodily injury.

22 (d) The provisions of Section 46.02 prohibiting the carrying
23 of a firearm or carrying of a club do not apply to a public
24 security officer employed by the adjutant general under Section
25 431.029, Government Code, in performance of official duties or
26 while traveling to or from a place of duty.

27 SECTION 25. Section 1(10), Article 4413(29ee), Revised

1 Statutes, is repealed.

2 SECTION 26. (a) The changes in law made by this Act in
3 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
4 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
5 amending Sections 12.092 and 12.095, Health and Safety Code, as
6 added by Chapter 165, Acts of the 74th Legislature, Regular
7 Session, 1995, apply only to a person's initial application for a
8 license to carry a concealed handgun under Article 4413(29ee),
9 Revised Statutes, if the application is made on or after the
10 effective date of this Act. A person who makes an initial
11 application for a license to carry a concealed handgun under
12 Article 4413(29ee), Revised Statutes, before the effective date of
13 this Act is covered by the law that existed when the application
14 was made, and the former law is continued in effect for that
15 purpose.

16 (b) The changes in law made by this Act in repealing Section
17 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
18 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
19 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
20 of the 74th Legislature, Regular Session, 1995, regarding the
21 revocation of a license to carry a handgun, apply to any revocation
22 proceeding initiated on or after the effective date of this Act.

23 SECTION 27. Not later than September 1, 1998, a person who
24 before the effective date of this Act was licensed to carry a
25 concealed handgun under Article 4413(29ee), Revised Statutes, and
26 whose license was revoked on the sole basis that the person was
27 charged with the commission of a Class A or Class B misdemeanor or

1 an offense under Section 42.01, Penal Code, or a felony under an
2 information or indictment may apply to the department to change the
3 status of the person's license in accordance with Sections 12 and
4 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
5 The Department of Public Safety shall promptly place the person's
6 license on suspension, if the charges against the person are still
7 pending, or reinstate the person's license, if the charges against
8 the person have been dismissed.

9 SECTION 28. Not later than December 1, 1997, the Department
10 of Public Safety shall establish the procedure and shall commence
11 any negotiation required by Section 35, Article 4413(29ee), Revised
12 Statutes, as amended by this Act.

13 SECTION 29. (a) The Texas Alcoholic Beverage Commission
14 shall:

15 (1) not later than October 1, 1997, adopt the rules
16 required by Section 104.06, Alcoholic Beverage Code, as added by
17 this Act; and

18 (2) at the time of the issuance or the first renewal
19 of a license or permit under the Alcoholic Beverage Code, that
20 allows on-premises consumption of any alcoholic beverage and that
21 occurs on or after October 1, 1997, make the initial determination
22 required by Section 104.06, Alcoholic Beverage Code, as added by
23 this Act.

24 (b) The change in law made by this Act to Section 31,
25 Article 4413(29ee), Revised Statutes, applies only to the display
26 of a sign on or after the date the Texas Alcoholic Beverage
27 Commission makes an initial determination under Section 104.06,

1 Alcoholic Beverage Code, as added by this Act, in accordance with
2 Subsection (a)(2) of this section, with respect to the holder of a
3 license or permit who conducts business on the premises for which
4 the determination is made.

5 (c) The change in law made by this Act to Section 46.035,
6 Penal Code, relating to the Texas Alcoholic Beverage Commission's
7 determination of the percentage of income derived from the sale or
8 service of alcoholic beverages for on-premises consumption applies
9 only to an offense committed on or after October 1, 1998. For
10 purposes of this section, an offense is committed before October 1,
11 1998, if any element of the offense occurs before that date.

12 SECTION 30. The changes in law made by this Act to Sections
13 46.02, 46.03, and 46.15, Penal Code, apply only to an offense
14 committed on or after the effective date of this Act. An offense
15 committed before the effective date of this Act is covered by the
16 law in effect when the offense was committed, and the former law is
17 continued in effect for that purpose. For purposes of this
18 section, an offense was committed before the effective date of this
19 Act if any element of the offense occurred before that date.

20 SECTION 31. This Act takes effect September 1, 1997.

21 SECTION 32. The importance of this legislation and the
22 crowded condition of the calendars in both houses create an
23 emergency and an imperative public necessity that the
24 constitutional rule requiring bills to be read on three several
25 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable James E. "Pete" Laney
Speaker of the House of Representatives

4-7-97
(date)

Sir:

We, your COMMITTEE ON PUBLIC SAFETY

to whom was referred HB 2907 have had the same under consideration and beg to report back with the recommendation that it

- ☐ do pass, without amendment.
- ☐ do pass, with amendment(s).
- ☒ do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- ☒ yes ☐ no A fiscal note was requested.
- ☐ yes ☒ no A criminal justice policy impact statement was requested.
- ☐ yes ☒ no An equalized educational funding impact statement was requested.
- ☐ yes ☒ no An actuarial analysis was requested.
- ☐ yes ☒ no A water development policy impact statement was requested.
- ☐ yes ☒ no A tax equity note was requested.
- ☐ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor _____

Joint Sponsors: _____ / _____ / _____

Co-Sponsors: _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Oakley, Chair	<input checked="" type="checkbox"/>			
Driver, Vice-chair	<input checked="" type="checkbox"/>			
Carter				<input checked="" type="checkbox"/>
Keel	<input checked="" type="checkbox"/>			
Keffer	<input checked="" type="checkbox"/>			
Madden	<input checked="" type="checkbox"/>			
McClendon	<input checked="" type="checkbox"/>			
Olivo	<input checked="" type="checkbox"/>			
Reyna	<input checked="" type="checkbox"/>			

Total 8 aye
 0 nay
 0 present, not voting
 1 absent

[Signature]
CHAIR

BILL ANALYSIS

PUBLIC SAFETY

C.S.H.B. 2909

By: Carter

4-7-97

Committee Report (Substituted)

BACKGROUND

In 1995 the Texas Legislature passed the Concealed Handgun Licensing bill giving law-abiding Texans a procedure by which to license themselves to carry a handgun. In the passage of the bill, some conforming language was omitted and experience over two years has indicated some changes necessary to orderly implementation of the law.

PURPOSE

The purpose of House Bill 2909 is to provide clean-up, conforming language and technical corrections to the laws passed session dealing with the licensing of carrying concealed handguns.

RULEMAKING AUTHORITY

The Texas Department of Public Safety is granted rulemaking authority in Section 35(a), Article 4413(29ee), Revised Statutes, to develop a procedure to allow residents of states without concealed carry laws to obtain a concealed handgun license in Texas.

The Texas Alcoholic Beverage Commission is granted rulemaking authority to adopt rules in Section 104.06, Alcoholic Beverage Code, to determine the amount of income a business derives from the sale of alcohol, and to require compliance among license and permit holders.

SECTION BY SECTION ANALYSIS

- SECTION 1 Amends Section 2(a), Article 4413(29ee), with conforming language for later changes in reciprocity and mental soundness provisions.
- SECTION 2 Amends Section 2, Article 4413(29ee), by adding language regarding mental soundness of applicants to be used by the medical advisory board of the Department of Public Safety. A list of diagnoses is included. Depression was removed.
- SECTION 3 Section 3(a)(5), Article 4413(29ee), Revised Statutes is amended by stating that two sets of fingerprints may be taken by a person employed by a law enforcement agency or a qualified private entity designated by a law enforcement agency.
- SECTION 4 Section 5(b), Article 4413(29ee), Revised Statutes, is amended to add that the director's designee must complete a record check no later than 60 days after the date the department receives application for a license. The designee may conduct any further record check or investigation the department deems necessary. The additional record check must be complete within 180 days of receipt of the application materials.
- SECTION 5 Amends Section 6(b), Article 4413(29ee), Revised Statutes to add conforming language from Section 4 and to require the department to notify the applicant in writing that the department is unable to make a determination within the 60-day period and provide an estimation of the amount of time necessary to make the determination.

SECTION 6 Section 6(g), Article 4413(29ee), is stricken to remove language requiring presentation of a concealed license regardless if the license holder is carrying a handgun at the time or not.

(h) Is amended to add language suspending the person's license if the person fails or refuses to display the license and identification required by Section 13.

(i) Is amended to add language making it an offense (Class B misdemeanor) to fail or refuse to display the license and identification as above after previously having had the license suspended for a violation of that subsection.

SECTION 7 Section 12(a), Article 4413(29ee), is amended to conform with language on suspension of a license in Section 8. A license is suspended when a license holder is charged with a Class A or B misdemeanor or an offense under Section 42.01, Penal Code or a felony.

SECTION 8 Section 13(a), Article 4413(29ee), is amended to allow suspension of a license when the holder is charged with a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code or a felony.

(c) Licenses may be suspended under this section:

(1) for 30 days for reasons listed in Subsection (a)(3)(4)(5) except as provided in (c)(3).

(2) for 90 days for failing to display a license as required by Section 6, except as provided in (c)(3).

(3) for not less than one year and not more than three years for violations of Subsection (a) except for (a)(1) if the person's license has been previously suspended for the same reason; or

(4) until dismissal of the charges, if the license is suspended under (a)(1).

SECTION 9 Amends Section 17(9c), Article 4413(29ee), to allow the department to deny a license on the written recommendation of an instructor only if the department determines the recommendation is made in good faith and is supported by a preponderance of the evidence. This determination shall be made not later than the 45th day after the department receives the recommendation. This determination period extends the 60-period of Section 6(b) one day for each day necessary for determination under this section.

SECTION 10 Sections 18(c) and (f), Article 4413(29ee), are amended to allow the department to issue a qualified handgun instructor a license to carry a concealed handgun at the time the instructor is certified for a fee of \$100. If the instructor's concealed handgun license is revoked, suspended or denied, action can be taken against both the handgun license and the instructor certification.

SECTION 11 Sections 31(a) and (c) are amended to add Chapter 74 (brew pubs) of the Alcoholic Beverage Code to the list of permitted businesses that derive 51 percent or more of their income from the sale of alcohol and must display a sign that it is unlawful to carry a handgun. Added language amends the sign to read that it is unlawful for a person licensed under this article (concealed handgun license) to carry a handgun on the premises. The sign must include the number "51" printed in solid red at least five inches in height.

SECTION 12 Section 35(a), Article 4413(29ee), is amended to require the department to establish a procedure to issue a license to a person from a state that does not provide for the issuance of a license. The person must meet eligibility requirement of this article other than residency required in Section 2(a)(1). The procedure shall include a fee to provide for the cost of a criminal history check and investigation.

(b) The department shall negotiate agreements with other states that provide for licenses to carry a handgun that would recognize those licenses if the department determines that:

- (1) the eligibility requirements of the other states for background checks meet or exceed requirements imposed by federal law for purchase of a handgun.
- (2) the other state recognizes Texas licenses.

SECTION 13 Section 11.041 is added to the Alcoholic Beverage Code "WARNING SIGN REQUIRED."

(a) Requires permit holders who are not otherwise required to display a sign under Section 31, Article 4413(29ee) shall display a sign giving notice that it is illegal to carry a weapon on the premises unless it is a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee).

(b) The sign must be at list 6 inches by 14 inches, must appear in contrasting color, clearly displayed. A sign in another language may be required by the Alcoholic Beverage Commission if a substantial portion of the customers speak the other language.

SECTION 14 Section 11.61(e), Alcoholic Beverage Code is amended to add a person who possesses a concealed handgun of the same category for which the person is licensed to the list of exceptions to the subsection providing for cancellation of a permit, unless the person is on the premises of a business derived 51 percent or more of their income from the sale of alcohol.

SECTION 15 Section 61.11, Alcoholic Beverage Code, "WARNING SIGN REQUIRED" is amended to require license holders not otherwise required to display a sign under Section 31, Article 4413(29ee) shall display a sign giving notice that it is illegal to carry a weapon on the premises unless it is a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee).

(b) The sign must be at list 6 inches by 14 inches, must appear in contrasting color, clearly displayed. A sign in another language may be required by the Alcoholic Beverage Commission if a substantial portion of the customers speak the other language. Language in current law requiring a sign to give notice that it is a felony offense to carry weapons where alcoholic beverages are sold, served or consumed is deleted.

SECTION 16 Section 61.71(f) Alcoholic Beverage Code, is amended to add a person who possess a concealed handgun of the same category for which the person is licensed to the list of exceptions to the subsection providing for cancellation of an off-premise or on-premise license, unless the person is on the premises of a business derived 51 percent or more of their income from the sale of alcohol.

SECTION 17 Chapter 104, Alcoholic Beverage Code, is amended by adding Section 104.06 to read as follows: MONITORING OF GROSS RECEIPTS

(a) The Alcoholic Beverage Commission shall determine on issuance of renewal of a license or permit for on-premises consumption of alcohol whether the owner will receive 51 percent or more of the gross receipts from the sale or service of alcoholic beverages.

(b) The commission shall adopt rules for making a determination under (a) and require the holder of the license or permit to provide information necessary to make the determination.

(c) If the commission determines the business will receives 51 percent or more of

the gross receipts from the sale or service of alcoholic beverages, the holder shall comply with the requirements of section 31, Article 4413(29ee) and continue to comply until the commission determines the 51 percent figure no longer applies.

SECTION 18 Section 12.092(b) Health and Safety Code, is amended to add conforming language regarding the medical advisory board duties.

SECTION 19 Section 12.095(a), (c), and (d) Health and Safety Code, are amended to add conforming language regarding the medical advisory board duties.

SECTION 20 "TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN." Chapter 30.06 Penal Code is added.

(a) A license holder commits a trespass offense if the license holder

- (1) carries a handgun authorized under Article 4413(29ee) onto property of another person without consent and
- (2) received notice that
 - (A) entry with a concealed handgun was forbidden; or
 - (B) remaining on the property with a concealed handgun was forbidden and the license holder failed to depart.

(b) A person receives notice if the owner or someone with authority provides notice by oral and written communication.

(c) Definitions

(d) An offense under this section is a Class A misdemeanor.

SECTION 21 Section 46.02 Penal Code, is amended by deleting all language regarding defense to prosecution for intentionally, knowingly, or recklessly carrying a handgun, illegal knife or club.

SECTION 22 Sections 46.03(b) and (c) Penal Code, are amended.

(b) Reference to peace officers is deleted from the defense to prosecution language.

(c) Premises defined as the meaning assigned in Section 46.035.

SECTION 23 Section 46.035(b) Penal Code, is amended to add Chapter 74, Alcoholic Beverage Code (brew pubs), and businesses deriving 51 or more percent of income from the sale or service of on-premises alcoholic beverages to the list of places where licensed handguns are prohibited.

SECTION 24 Section 46.15, Penal Code, is added to the former defense to prosecution language to the nonapplicability statute.

(b) Section 46.02 does not apply to a person who:

- (1) is in the actual discharge of duties as member of the armed forces or guard at a penal institution
- (2) is on the person's own premises unless the person is a security who must comply with Subdivision 5.
- (3) is traveling
- (4) is engaged in hunting, fishing or other sporting activity or en route to the activity.
- (5) holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies if
 - (A) the person is performing the duties of security officer or

- traveling to or from the place of assignment and
- (B) the weapon is in plain view.
- (6) is carrying a concealed handgun and a valid license issued under Article 4413(29ee)
- (7) holds a security officer commission and a personal protection authorization issued by Texas Board of Private Investigators and Private Security Agencies and is providing personal protection
- (8) holds an alcoholic beverage permit or license supervising the operation of the permitted or licensed premises or is an employee of the permit or license holder

(c) the carrying of clubs by noncommissioned security guards is not prohibited by Section 46.02 if the guard has proper training. Non-violent restraint means the use of reasonable force, not intended or likely to inflict bodily harm.

(d) the carrying of a firearm or club by a security officer employed by the adjutant general under Section 431.029, Government Code is not prohibited by Section 46.02

SECTION 25 Section 1(10), Article 4413(29ee) (unsound mind) is repealed.

SECTION 26 Transition section relating to mental soundness.

SECTION 27 Transition section for revocations and suspensions due to criminal offenses.

SECTION 28 DPS negotiations for reciprocal agreements shall commence not later than December 1, 1997.

SECTION 29 Instructions to the Texas Alcoholic Beverage Commission to initiate monitoring of percent of on-premises alcoholic beverage sales.

SECTION 30 Changes in law made by this Act to Penal Code Sections 46.02, 46.03 and 46.15 apply only to an offense committed on or after the effective date of this Act. Current law is continued for offenses committed prior to that date.

SECTION 31 Effective Date: September 1, 1997

SECTION 32 Emergency Clause

COMPARISON OF ORIGINAL TO SUBSTITUTE

SECTION 1 Section 2(a), Article 4413(29ee), Revised Statutes, is revised by making reference to Section 35(a) of this article rather than Section 35(b).

SECTION 2 Removes depression from the list of medical conditions or disorders which might disqualify a person from obtaining a concealed handgun license.

SECTION 10 Qualified handgun instructors will pay an additional \$100 fee to receive a concealed handgun license in addition to the \$100 fee for certification as a licensed handgun instructor.

SECTION 11 (a) Adds that the Texas Alcohol Beverage Commission (TABC) will determine if a business derives at least 51% of income from alcohol sales. TABC will determine this under Section 104.06, Alcoholic Beverage Code.

(b) This subsection is added.

SECTION 12 (a) Amended to allow long-term visitors from states without concealed handgun

laws may apply for a license in Texas subject to an out of state background investigation. A fee for the extra investigation will be collected in addition to the license fee. Original version allowed holders of concealed handgun licenses issued from other states to be issued a Texas license regardless of other state's recognition of the Texas concealed handgun license.

(b) Authorizes DPS to negotiate with other concealed handgun states to determine reciprocity agreements. Other states must require minimum federal requirements for handgun license issuance in order to be eligible for a reciprocity agreement.

SECTION 13 Section 11.041. "WARNING SIGN REQUIRED." is added.

SECTION 14 Previously SECTION 13.

SECTION 15 Replaces original SECTION 15. Amends Section 61.11, Alcoholic Beverage Code.

SECTION 16 Replaces original SECTION 16. Amends 61.71(f), Alcoholic Beverage Code.

SECTION 17 Replaces original SECTION 17. Adds Section 104.06., "MONITORING OF GROSS RECEIPTS", to Chapter 104, Alcoholic Beverage Code.

SECTION 18 Originally SECTION 15.

SECTION 19 Previously SECTION 16. Section 46.035(b) Penal Code is amended adding conforming language to add brew pubs (Chapter 74) to the list of prohibited places.

SECTION 20 Repeals Section 1(10) Article 4413(29ee) (Unsound Mind).

SECTION 21 Replaces the original SECTION 21. Amends Section 46.02, Penal Code.

SECTION 22 Replaces original SECTION 22. Amends Section 46.03 (b)(c), Penal Code.

SECTION 23 Replaces original SECTION 23. Amends Section 46.035(b), Penal Code.

SECTION 24 Replaces original SECTION 24. Amends Section 46.15, Penal Code.

SECTION 25 Replaces original SECTION 25. Repeals Section 1(10), Article 4413(29ee), Revised Statutes.

SECTION 26 Replaces SECTION 26 with the original SECTION 21.

SECTION 27 Originally SECTION 22.

SECTION 28 This section is added to require the Department of Public Safety comply with Section 35, Article 4413(29ee), Revised Statutes, no later than December 1, 1997.

SECTION 29 This section is added to require the Texas Alcoholic Beverage Commission to adopt rules required in Section 104.06, Alcoholic Beverage Code, no later than October 1, 1997.

SECTION 30 Originally SECTION 24. Adds Section 46.02 and 46.15, Penal Code, and removes Section 46.035.

SECTION 31 Originally SECTION 25.

SECTION 32 Originally SECTION 26.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

75th Regular Session

April 10, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909,
Committee Report 1st House,
Substituted
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

**Biennial Net Impact to General Revenue Funds by HB2909-Committee Report 1st House,
Substituted**

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

The bill would require that the Department of Public Safety (DPS) establish procedures for reciprocal agreements with other states to honor concealed handgun permits.

The bill would also require the Texas Alcoholic Beverage Commission (TABC) to determine if certain permit and license holders derive a majority of their gross receipts from the sale of alcoholic beverages. Each business so designated would have to display a sign regarding the legality of carrying concealed handguns on its premises.

Methodology

DPS would be required to coordinate with other states regarding concealed handgun permits. In addition, DPS would need to process out-of-state applications and make programming changes to the concealed handgun database to accommodate these applications. Although there would be added responsibility, it is assumed that the new responsibility could be fulfilled with current resources.

TABC would have to make a determination on an estimated 15,000 permits with a 10 percent audit rate. The cost of this responsibility would be offset by an equal amount of fee revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
1998	(\$324,100)	\$324,100	4.0
1999	(276,100)	276,100	4.0
2000	(276,100)	276,100	4.0
2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

10

LBB Staff: JK, CB, RT

11

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 7, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Introduced

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
304 Comptroller of Public Accounts

LBB Staff: JK, CB, RS



Committees:

- Public Safety
- State Affairs

State of Texas
House of Representatives
BILL G. CARTER
DISTRICT 91

Chairman
Tarrant County Delegation

April 14, 1997

Statement of Representative Bill G. Carter regarding the vote on House Bill 2909 on April 7, 1997 in the House Committee on Public Safety.

I was presenting a bill in another committee when the vote was taken on HB 2909. Had I been present I would have voted aye.

Signed



Bill G. Carter

13

Austin Office:
P.O. Box 2910
Austin, Texas 78768-2910
512-463-0482

District Office:
3525 Denton Hwy., Ste. A
Fort Worth Texas 76117
817-595-0072

WITNESS LIST

HB 2909
HOUSE COMMITTEE REPORT
Public Safety Committee

April 7, 1997 - 4:00P

For: Rep. Allen (Co-Author HB 2909)
Rep. Hupp (Co-Author HB 2909)
William H. Reid, M.D. (Himself)
Against: Deborah D. Tucker (Txns Agnst Gun Violence)

8

SUMMARY OF COMMITTEE ACTION

HB 2909

April 7, 1997 4:00PM
Considered in public hearing
Committee substitute considered in committee
Testimony taken in committee
Reported favorably as substituted

ADOPTED

as amended

MAY 13 1997

Sharon Carter
Chief Clerk
House of Representatives

By Carter

B. No. 2909

Substitute the following for H.B. No. 2909:

By Carter

C.S. H.B. No. 2909

A BILL TO BE ENTITLED

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(a) of this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun [a-person-of unsound-mind];

1 (8) has not, in the five years preceding the date of
2 application, been convicted of a Class A or Class B misdemeanor or
3 an offense under Section 42.01, Penal Code;

4 (9) is fully qualified under applicable federal and
5 state law to purchase a handgun;

6 (10) has not been finally determined to be delinquent
7 in making a child support payment administered or collected by the
8 attorney general;

9 (11) has not been finally determined to be delinquent
10 in the payment of a tax or other money collected by the
11 comptroller, state treasurer, tax collector of a political
12 subdivision of the state, Texas Alcoholic Beverage Commission, or
13 any other agency or subdivision of the state;

14 (12) has not been finally determined to be in default
15 on a loan made under Chapter 57, Education Code;

16 (13) is not currently restricted under a court
17 protective order or subject to a restraining order affecting the
18 spousal relationship, not including a restraining order solely
19 affecting property interests;

20 (14) has not, in the 10 years preceding the date of
21 application, been adjudicated as having engaged in delinquent
22 conduct violating a penal law of the grade of felony; and

23 (15) has not made any material misrepresentation, or
24 failed to disclose any material fact, in an application submitted
25 pursuant to Section 3 of this article or in a request for
26 application submitted pursuant to Section 4 of this article.

27 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,

1 is amended by adding Subsection (d) to read as follows:

2 (d)(1) For purposes of Subsection (a)(7) of this section, a
3 person is incapable of exercising sound judgment with respect to
4 the proper use and storage of a handgun if:

5 (A) the person has been diagnosed by a licensed
6 physician as suffering from a psychiatric disorder or condition
7 that causes or is likely to cause substantial impairment in
8 judgment, mood, perception, impulse control, or intellectual
9 ability;

10 (B) the person suffers from a psychiatric
11 disorder or condition described by Paragraph (A) of this
12 subdivision that:

13 (i) is in remission but is reasonably
14 likely to redevelop at a future time; or

15 (ii) requires continuous medical treatment
16 to avoid redevelopment;

17 (C) the person has been diagnosed by a licensed
18 physician or declared by a court to be incompetent to manage the
19 person's own affairs; or

20 (D) the person has entered in any criminal
21 proceeding a plea of not guilty by reason of insanity.

22 (2) The following are evidence that a person has a
23 psychiatric disorder or condition described by Subdivision (1)(A)
24 of this subsection:

25 (A) involuntary psychiatric hospitalization in
26 the preceding five-year period;

27 (B) psychiatric hospitalization in the preceding

1 two-year period;

2 (C) inpatient or residential substance abuse
3 treatment in the preceding five-year period;

4 (D) diagnosis in the preceding five-year period
5 by a licensed physician that the person is dependent on alcohol, a
6 controlled substance, or a similar substance; or

7 (E) diagnosis at any time by a licensed
8 physician that the person suffers or has suffered from a
9 psychiatric disorder or condition consisting of or relating to:

10 (i) schizophrenia or delusional disorder;

11 (ii) bipolar disorder;

12 (iii) chronic dementia, whether caused by
13 illness, brain defect, or brain injury;

14 (iv) dissociative identity disorder;

15 (v) intermittent explosive disorder; or

16 (vi) antisocial personality disorder.

17 SECTION 3. Section 3(a), Article 4413(29ee), Revised
18 Statutes, is amended to read as follows:

19 (a) An applicant for a license to carry a concealed handgun
20 must submit to the director's designee described by Section 5 of
21 this article:

22 (1) a completed application on a form provided by the
23 department that requires only the information listed in Subsection
24 (b) of this section;

25 (2) two recent color passport photographs of the
26 applicant;

27 (3) a certified copy of the applicant's birth

1 certificate or certified proof of age;

2 (4) proof of residency in this state;

3 (5) two complete sets of legible and classifiable
4 fingerprints of the applicant taken by a person [~~employed-by-a-law~~
5 ~~enforcement--agency--who--is~~] appropriately trained in recording
6 fingerprints who is employed by a law enforcement agency or by a
7 private entity designated by a law enforcement agency as an entity
8 qualified to take fingerprints of an applicant for a license under
9 this article;

10 (6) a nonrefundable application and license fee of
11 \$140 paid to the department;

12 (7) a handgun proficiency certificate described by
13 Section 17 of this article;

14 (8) an affidavit signed by the applicant stating that
15 the applicant:

16 (A) has read and understands each provision of
17 this article that creates an offense under the laws of this state
18 and each provision of the laws of this state related to use of
19 deadly force; and

20 (B) fulfills all the eligibility requirements
21 listed under Section 2 of this article; and

22 (9) a form executed by the applicant that authorizes
23 the director to make an inquiry into any noncriminal history
24 records that are necessary to determine the applicant's eligibility
25 for a license under Section 2(a) of this article.

26 SECTION 4. Section 5(b), Article 4413(29ee), Revised
27 Statutes, is amended to read as follows:

1 (b) The director's designee as needed shall conduct an
2 additional criminal history record check of the applicant and an
3 investigation of the applicant's local official records to verify
4 the accuracy of the application materials. The scope of the record
5 check and the investigation are at the sole discretion of the
6 department, except that the director's designee shall complete the
7 record check and investigation not later than 60 days after the
8 date the department receives the application materials. The
9 department shall send a fingerprint card to the Federal Bureau of
10 Investigation for a national criminal history check of the
11 applicant. On completion of the investigation, the director's
12 designee shall return all materials and the result of the
13 investigation to the appropriate division of the department at its
14 Austin headquarters. The director's designee may submit to the
15 appropriate division of the department, at the department's Austin
16 headquarters, along with the application materials a written
17 recommendation for disapproval of the application, accompanied by
18 an affidavit stating personal knowledge or naming persons with
19 personal knowledge of a ground for denial under Section 2 of this
20 article. The director's designee in the appropriate geographical
21 area may also submit the application and the recommendation that
22 the license be issued. On receipt at the department's Austin
23 headquarters of the application materials and the result of the
24 investigation by the director's designee, the department shall
25 conduct any further record check or investigation the department
26 determines is necessary based on the recommendation of the
27 director's designee, except that the department shall complete the

1 record check and investigation not later than 180 days after the
2 date the department receives the application materials from the
3 applicant.

4 SECTION 5. Section 6(b), Article 4413(29ee), Revised
5 Statutes, is amended to read as follows:

6 (b)[+] Not [~~After-January-17-1997,--the--department,--not~~]
7 later than the 60th day after the date of the receipt by the
8 director's designee of the completed application materials, the
9 department shall:

10 (1) [A] issue the license; [or]

11 (2) [B] notify the applicant in writing that the
12 application was denied:

13 (A) [+] on the grounds that the applicant
14 failed to qualify under the criteria listed in Section 2 of this
15 article;

16 (B) [+++] based on the affidavit of the
17 director's designee submitted to the department under Section 5(b)
18 of this article; or

19 (C) [+++] based on the affidavit of the
20 qualified handgun instructor submitted to the department under
21 Section 17(c) of this article; or

22 (3) notify the applicant in writing that the
23 department is unable to make a determination regarding the issuance
24 or denial of a license to the applicant within the 60-day period
25 prescribed by this subsection and include in that notification an
26 explanation of the reason for the inability and an estimation of
27 the amount of time the department will need to make the

1 determination.

2 [~~2~~]~~--Between the effective date of--this--article--and~~
3 ~~December--31--1996, the department shall perform the duties set out~~
4 ~~in this subsection not later than the 90th day after--the--date--of~~
5 ~~the receipt by the director's designee of the completed application~~
6 ~~materials.]~~

7 SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee),
8 Revised Statutes, are amended and relettered to read as follows:

9 (g) [~~On a demand by a magistrate or a peace officer--that--a~~
10 ~~license--holder--display--the license holder's handgun license, the~~
11 ~~license holder shall display--both--the--license--and--the--license~~
12 ~~holder's--driver's--license or identification certificate issued by~~
13 ~~the department.~~

14 [~~h~~] If a license holder is carrying a handgun on or about
15 the license holder's person when a magistrate or a peace officer
16 demands that the license holder display identification, the license
17 holder shall display both the license holder's driver's license or
18 identification certificate issued by the department and the license
19 holder's handgun license. A person who fails or refuses to display
20 the license and identification as required by this subsection is
21 subject to suspension of the person's license as provided by
22 Section 13 of this article.

23 (h) [~~i~~] A person commits an offense if the person fails or
24 refuses to display the license and identification as required by
25 Subsection (g) [~~or--h~~] of this section after previously having had
26 the person's license suspended for a violation of that subsection.
27 An offense under this subsection is a Class B misdemeanor.

1 SECTION 7. Section 12(a), Article 4413(29ee), Revised
2 Statutes, is amended to read as follows:

3 (a) A license may be revoked under this section if the
4 license holder:

5 (1) was not entitled to the license at the time it was
6 issued;

7 (2) gave false information on the application;

8 (3) subsequently becomes ineligible for a license
9 under Section 2 of this article, unless the sole basis for the
10 ineligibility is that the license holder is charged with the
11 commission of a Class A or Class B misdemeanor or an offense under
12 Section 42.01, Penal Code, or of a felony under an information or
13 indictment; [or]

14 (4) is convicted of an offense under Section 46.035,
15 Penal Code; or

16 (5) is determined by the department to have engaged in
17 conduct constituting a reason to suspend a license listed in
18 Section 13(a) of this article after the person's license has been
19 previously suspended twice for the same reason.

20 SECTION 8. Sections 13(a) and (c), Article 4413(29ee),
21 Revised Statutes, are amended to read as follows:

22 (a) A license may be suspended under this section if the
23 license holder:

24 (1) is charged with the commission of a Class A or
25 Class B misdemeanor or an offense [~~convicted-of-disorderly--conduct~~
26 ~~punishable--as--a--Class--C-misdemeanor~~] under Section 42.01, Penal
27 Code, or of a felony under an information or indictment;

1 (2) fails to display a license as required by Section
2 6 of this article;

3 (3) fails to notify the department of a change of
4 address or name as required by Section 8 of this article;

5 (4) carries a concealed handgun under the authority of
6 this article of a different category than the license holder is
7 licensed to carry; or

8 (5) [~~has---been---charged---by---indictment--with--the~~
9 ~~commission-of--an--offense--that--would--make--the--license--holder~~
10 ~~ineligible-for-a-license-on-conviction;-or~~

11 [+6+] fails to return a previously issued license
12 after a license is modified as required by Section 10(d) of this
13 article.

14 (c) A license may be suspended under this section:

15 (1) for 30 days, if the person's license is subject to
16 suspension for a reason listed in Subsection (a)(3), (4), or (5) of
17 this section, except as provided by Subdivision (3) of this
18 subsection;

19 (2) for 90 days, if the person's license is subject to
20 suspension for a reason listed in Subsection (a)(2) of this
21 section, except as provided by Subdivision (3) of this subsection;

22 (3) for not less than one year and not more than three
23 years if the person's license is subject to suspension for a reason
24 listed in Subsection (a) of this section, other than the reason
25 listed in Subsection (a)(1) of this section, and the person's
26 license has been previously suspended for the same reason; or

27 (4) until dismissal of the charges, if the person's

1 license is subject to suspension for the reason listed in
2 Subsection (a)(1) of this section.

3 SECTION 9. Section 17(c), Article 4413(29ee), Revised
4 Statutes, is amended to read as follows:

5 (c) A qualified handgun instructor may submit to the
6 department a written recommendation for disapproval of the
7 application for a license, renewal, or modification of a license,
8 accompanied by an affidavit stating personal knowledge or naming
9 persons with personal knowledge of facts that lead the instructor
10 to believe that an applicant is not qualified for handgun
11 proficiency certification. The department may use a written
12 recommendation submitted under this subsection as the basis for
13 denial of a license only if the department determines that the
14 recommendation is made in good faith and is supported by a
15 preponderance of the evidence. The department shall make a
16 determination under this subsection not later than the 45th day
17 after the date the department receives the written recommendation.
18 The 60-day period in which the department must take action under
19 Section 6(b) of this article is extended one day for each day a
20 determination is pending under this subsection.

21 SECTION 10. Sections 18(c) and (f), Article 4413(29ee),
22 Revised Statutes, are amended to read as follows:

23 (c) The department shall provide training to an individual
24 who applies for certification as a qualified handgun instructor.
25 An applicant shall pay a fee of \$100 to the department for the
26 training. An applicant must take and successfully complete the
27 training offered by the department and pay the training fee before

1 the department may certify the applicant as a qualified handgun
2 instructor. The department shall issue [~~waive--the--requirements~~
3 ~~regarding--a--handgun-proficiency-certification-under-Section-17-of~~
4 ~~this-article-for-an-applicant-for~~] a license to carry a concealed
5 handgun under the authority of this article to any person who is
6 certified as a qualified handgun instructor and who pays to the
7 department a fee of \$100 in addition to [~~takes-and-successfully~~
8 ~~completes-training-under-this-subsection--and--pays~~] the training
9 fee. The department by rule may prorate or waive the training fee
10 for an employee of another governmental entity.

11 (f) If the department determines that a reason exists to
12 revoke, suspend, or deny a license to carry a concealed handgun
13 with respect to a person who is a qualified handgun instructor or
14 an applicant for certification as a qualified handgun instructor,
15 the department shall take that action against the person's license
16 to carry a concealed handgun, if the person is an applicant for or
17 the holder of such a license, and the person's certification as a
18 qualified handgun instructor [~~regardless-of-whether-the-person-has~~
19 ~~a-license-issued-under-this-article-to-carry-a-concealed-handgun~~].

20 SECTION 11. Section 31, Article 4413(29ee), Revised
21 Statutes, is amended by amending Subsections (a) and (c) and adding
22 Subsection (d) to read as follows:

23 (a) A business that has a permit or license issued under
24 Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic Beverage Code, and
25 that derives 51 percent or more of its income from the sale of
26 alcoholic beverages for on-premises consumption as determined by
27 the Texas Alcoholic Beverage Commission under Section 104.06,

1 Alcoholic Beverage Code, shall prominently display at each entrance
2 to the business premises a sign that complies with the requirements
3 of Subsection (c) of this section.

4 (c) The sign required under Subsections (a) and (b) of this
5 section must give notice in both English and Spanish that it is
6 unlawful for a person licensed under this article to carry a
7 handgun on the premises. The sign must appear in contrasting
8 colors with block letters at least one inch in height and must
9 include on its face the number "51" printed in solid red at least
10 five inches in height. The sign shall be displayed in a
11 conspicuous manner clearly visible to the public.

12 (d) A business that has a permit or license issued under the
13 Alcoholic Beverage Code and that is not required to display a sign
14 under this section may be required to display a sign under Section
15 11.041 or Section 61.11, Alcoholic Beverage Code.

16 SECTION 12. Section 35, Article 4413(29ee), Revised
17 Statutes, is amended to read as follows:

18 Sec. 35. NONRESIDENT [RECIPECAL] LICENSE. (a) The
19 department by rule shall establish a procedure for a person who is
20 a legal resident of a state that does not provide for the issuance
21 of a license to carry a concealed handgun and who meets the
22 eligibility requirements of this article other than the residency
23 requirement established by Section 2(a)(1) of this article to
24 obtain a license under this article. The procedure shall include
25 payment of a fee in an amount sufficient to recover the average
26 cost to the department of obtaining a criminal history record check
27 and investigation on a nonresident applicant.

1 **(b) The department shall negotiate an agreement with any**
2 **other state that provides for the issuance of a license to carry a**
3 **concealed handgun under which a license issued by the other state**
4 **is recognized in this state** ~~[On-application-by-a-person-who--has--a~~
5 **valid-license-to-carry-a-concealed-handgun-issued-by-another-state,**
6 **the-department-may-issue-to-the-person-a-license-under-this-article**
7 **without--requiring-that-the-person-meet-eligibility-requirements-or**
8 **pay-fees-otherwise-imposed-under-this-article,** ~~--but--only]~~ if the
9 department determines that:

10 (1) the eligibility requirements imposed by the other
11 state include background check requirements that meet or exceed
12 background check ~~[are--at--least-as-rigorous-as-the]~~ requirements
13 imposed by federal law as a condition of receiving a handgun ~~[this~~
14 article]; and

15 (2) the other state recognizes ~~[provides-reciprocal~~
16 licensing-privileges-to-a-person-who-holds] a license issued in
17 [under] this ~~[article--and--applies--for--a-license-in-the-other]~~
18 state.

19 SECTION 13. Chapter 11, Alcoholic Beverage Code, is amended
20 by adding Section 11.041 to read as follows:

21 Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a
22 permit who is not otherwise required to display a sign under
23 Section 31, Article 4413(29ee), Revised Statutes, shall display in
24 a prominent place on the permit holder's premises a sign giving
25 notice that it is unlawful for a person to carry a weapon on the
26 premises unless the weapon is a concealed handgun of the same
27 category the person is licensed to carry under Article 4413(29ee),

1 Revised Statutes.

2 (b) The sign must be at least 6 inches high and 14 inches
3 wide, must appear in contrasting colors, and shall be displayed in
4 a conspicuous manner clearly visible to the public. The commission
5 or administrator may require the permit holder to also display the
6 sign in a language other than English if it can be observed or
7 determined that a substantial portion of the expected customers
8 speak the other language as their familiar language.

9 SECTION 14. Section 11.61(e), Alcoholic Beverage Code, is
10 amended to read as follows:

11 (e) Except as provided by Subsection (f), the commission or
12 administrator shall cancel an original or renewal permit if it is
13 found, after notice and hearing, that the permittee knowingly
14 allowed a person to possess a firearm in a building on the licensed
15 premises. This subsection does not apply to a person:

16 (1) who holds a security officer commission issued by
17 the Texas Board of Private Investigators and Private Security
18 Agencies, if:

19 (A) the person is engaged in the performance of
20 the person's duties as a security officer;

21 (B) the person is wearing a distinctive uniform;
22 and

23 (C) the weapon is in plain view;

24 (2) who is a peace officer; [or]

25 (3) who is a permittee or an employee of a permittee
26 if the person is supervising the operation of the premises; or

27 (4) who possesses a concealed handgun of the same

1 category the person is licensed to carry under Article 4413(29ee),
2 Revised Statutes, unless the person is on the premises of a
3 business described by Section 46.035(b)(1), Penal Code.

4 SECTION 15. Section 61.11, Alcoholic Beverage Code, is
5 amended to read as follows:

6 Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a
7 license who is not otherwise required to display a sign under
8 Section 31, Article 4413(29ee), Revised Statutes, shall display in
9 a prominent place on the license holder's [his] premises a sign
10 giving notice that it is unlawful for a person to carry a weapon on
11 the premises unless the weapon is a concealed handgun of the same
12 category the person is licensed to carry under Article 4413(29ee),
13 Revised Statutes.

14 (b) The sign must be [7] at least 6 inches high and 14
15 inches wide, must appear in contrasting colors, and shall be
16 displayed in a conspicuous manner clearly visible to the public
17 [stating:---FELONY---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN
18 YEARS--IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING
19 WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD, SERVED, OR CONSUMED].

20 The commission or administrator may require the holder of the
21 license to also display the sign in a language other than English
22 if it can be observed or determined that a substantial portion of
23 the expected customers speak the other language as their familiar
24 language.

25 [(b)--A--licensee--who--violates--this--section---commits---a
26 misdemeanor-punishable-by-a-fine-of-not-more-than-\$25.]

27 SECTION 16. Section 61.71(f), Alcoholic Beverage Code, is

1 amended to read as follows:

2 (f) Except as provided by Subsection (g), the commission or
3 administrator shall cancel an original or renewal dealer's
4 on-premises or off-premises license if it is found, after notice
5 and hearing, that the licensee knowingly allowed a person to
6 possess a firearm in a building on the licensed premises. This
7 subsection does not apply to a person:

8 (1) who holds a security officer commission issued by
9 the Texas Board of Private Investigators and Private Security
10 Agencies, if:

11 (A) the person is engaged in the performance of
12 the person's duties as a security officer;

13 (B) the person is wearing a distinctive uniform;
14 and

15 (C) the weapon is in plain view;

16 (2) who is a peace officer; [or]

17 (3) who is a licensee or an employee of a licensee if
18 the person is supervising the operation of the premises; or

19 (4) who possesses a concealed handgun of the same
20 category the person is licensed to carry under Article 4413(29ee),
21 Revised Statutes, unless the person is on the premises of a
22 business described by Section 46.035(b)(1), Penal Code.

23 SECTION 17. Chapter 104, Alcoholic Beverage Code, is amended
24 by adding Section 104.06 to read as follows:

25 Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the
26 issuance and renewal of a license or permit that allows on-premises
27 consumption of any alcoholic beverage the commission shall

1 determine whether the holder receives, or for the issuance of a
2 license or permit is to receive, 51 percent or more of the gross
3 receipts of the premises for which the license or permit is issued
4 from the holder's sale or service of alcoholic beverages for
5 on-premises consumption.

6 (b) The commission shall:

7 (1) adopt rules for making a determination under
8 Subsection (a); and

9 (2) require a holder of a license or permit to provide
10 any information or document that the commission needs to make a
11 determination.

12 (c) If the commission makes a determination under Subsection
13 (a) that a holder of a license or permit receives 51 percent or
14 more of the gross receipts of the premises from the sale or service
15 of alcoholic beverages, the holder shall comply with the
16 requirements of Section 31, Article 4413(29ee), Revised Statutes,
17 and shall continue to comply with those requirements until the
18 commission determines that the holder receives less than 51 percent
19 of the gross receipts of the premises from the sale or service of
20 alcoholic beverages for on-premises consumption.

21 SECTION 18. Section 12.092(b), Health and Safety Code, as
22 added by Chapter 165, Acts of the 74th Legislature, Regular
23 Session, 1995, is amended to read as follows:

24 (b) The medical advisory board shall assist the Department
25 of Public Safety of the State of Texas in determining whether:

26 (1) an applicant for a driver's license or a license
27 holder is capable of safely operating a motor vehicle; or

1 (2) an applicant for or holder of a license to carry a
2 concealed handgun under the authority of Article 4413(29ee),
3 Revised Statutes, is capable of exercising sound judgment with
4 respect to the proper use and storage of a handgun.

5 SECTION 19. Sections 12.095(a), (c), and (d), Health and
6 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
7 Regular Session, 1995, are amended to read as follows:

8 (a) If the Department of Public Safety of the State of Texas
9 requests an opinion or recommendation from the medical advisory
10 board as to the ability of an applicant or license holder to
11 operate a motor vehicle safely or to exercise sound judgment with
12 respect to the proper use and storage of a handgun, the
13 commissioner or a person designated by the commissioner shall
14 convene a panel to consider the case or question submitted by that
15 department.

16 (c) Each panel member shall prepare an individual
17 independent written report for the Department of Public Safety of
18 the State of Texas that states the member's opinion as to the
19 ability of the applicant or license holder to operate a motor
20 vehicle safely or to exercise sound judgment with respect to the
21 proper use and storage of a handgun, as appropriate. In the report
22 the panel member may also make recommendations relating to that
23 department's subsequent action.

24 (d) In its deliberations, a panel may examine any medical
25 record or report that contains material that may be relevant to the
26 ability of the applicant or license holder [~~to-operate-a-motor~~
27 ~~vehicle-safely~~].

1 issued under Article--4413(29ee),--Revised--Statutes,--to--carry--a
2 concealed handgun of the same category as the handgun the person is
3 carrying.

4 [(7) --a--person who holds a security officer commission
5 and a personal protection authorization issued by the--Texas--Board
6 of--Private--Investigators and Private Security Agencies and who is
7 providing personal protection under the Private--Investigators--and
8 Private--Security--Agencies Act--(Article 4413(29bb)),--Vernon's Texas
9 Civil Statutes).

10 [(7) --a holder of an alcoholic beverage permit or
11 license or an employee of a holder of an alcoholic beverage permit
12 or license if the actor is supervising the operation of the
13 permitted or licensed premises.

14 [(c) --It is a defense to prosecution under this section for
15 the offense of carrying a club that the actor was, at the time of
16 the commission of the offense, a noncommissioned security guard at
17 an institution of higher education who carried a nightstick or
18 similar club, and who had undergone 15 hours of training in the
19 proper use of the club, including at least seven hours of training
20 in the use of the club for nonviolent restraint. For the purposes
21 of this section, "nonviolent restraint" means the use of reasonable
22 force, not intended and not likely to inflict bodily injury.

23 [(d) --It is a defense to prosecution under this section for
24 the offense of carrying a firearm or carrying a club that the actor
25 was, at the time of the commission of the offense, a public
26 security officer employed by the adjutant general under Section
27 431.029, Government Code, and was performing official duties or

1 ~~traveling-to-or-from-a-place-of-duty-~~

2 ~~{e}~~ Except as provided by Subsection (c) ~~{f}~~, an offense
3 under this section is a Class A misdemeanor.

4 (c) ~~{f}~~ An offense under this section is a felony of the
5 third degree if the offense is committed on any premises licensed
6 or issued a permit by this state for the sale of alcoholic
7 beverages.

8 SECTION 22. Sections 46.03(b) and (c), Penal Code, are
9 amended to read as follows:

10 (b) It is a defense to prosecution under Subsections
11 (a)(1)-(4) that the actor possessed a firearm while in the actual
12 discharge of his official duties as a ~~[peace-officer-or--a]~~ member
13 of the armed forces or national guard or a guard employed by a
14 penal institution, or an officer of the court.

15 (c) In this section:

16 (1) "Premises" has the meaning assigned by Section
17 46.035.

18 (2) "Secured [~~"secured~~] area" means an area of an
19 airport terminal building to which access is controlled by the
20 inspection of persons and property under federal law.

21 SECTION 23. Section 46.035(b), Penal Code, is amended to
22 read as follows:

23 (b) A license holder commits an offense if the license
24 holder intentionally, knowingly, or recklessly carries a handgun
25 under the authority of Article 4413(29ee), Revised Statutes,
26 regardless of whether the handgun is concealed, on or about the
27 license holder's person:

1 (1) on the premises of a business that has a permit or
2 license issued under Chapter 25, 28, 32, [or] 69, or 74, Alcoholic
3 Beverage Code, if the business derives 51 percent or more of its
4 income from the sale or service of alcoholic beverages for
5 on-premises consumption, as determined by the Texas Alcoholic
6 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

7 (2) on the premises where a high school, collegiate,
8 or professional sporting event or interscholastic event is taking
9 place, unless the license holder is a participant in the event and
10 a handgun is used in the event;

11 (3) on the premises of a correctional facility;

12 (4) on the premises of a hospital licensed under
13 Chapter 241, Health and Safety Code, or on the premises of a
14 nursing home licensed under Chapter 242, Health and Safety Code,
15 unless the license holder has written authorization of the hospital
16 or nursing home administration, as appropriate;

17 (5) in an amusement park; or

18 (6) on the premises of a church, synagogue, or other
19 established place of religious worship.

20 SECTION 24. Section 46.15, Penal Code, is amended to read as
21 follows:

22 Sec. 46.15. NONAPPLICABILITY [~~TO-----PEACE-----OFFICERS~~].

23 (a) Sections 46.02 and 46.03 do not apply to peace officers and
24 neither section prohibits a peace officer from carrying a weapon in
25 this state, regardless of whether the officer is engaged in the
26 actual discharge of the officer's duties while carrying the weapon.

27 (b) Section 46.02 does not apply to a person who:

1 (1) is in the actual discharge of official duties as a
2 member of the armed forces or state military forces as defined by
3 Section 431.001, Government Code, or as a guard employed by a penal
4 institution;

5 (2) is on the person's own premises or premises under
6 the person's control unless the person is an employee or agent of
7 the owner of the premises and the person's primary responsibility
8 is to act in the capacity of a security guard to protect persons or
9 property, in which event the person must comply with Subdivision
10 (5);

11 (3) is traveling;

12 (4) is engaging in lawful hunting, fishing, or other
13 sporting activity on the immediate premises where the activity is
14 conducted, or is directly en route between the premises and the
15 actor's residence, if the weapon is a type commonly used in the
16 activity;

17 (5) holds a security officer commission issued by the
18 Texas Board of Private Investigators and Private Security Agencies,
19 if:

20 (A) the person is engaged in the performance of
21 the person's duties as a security officer or traveling to and from
22 the person's place of assignment;

23 (B) the person is wearing a distinctive uniform;
24 and

25 (C) the weapon is in plain view;

26 (6) is carrying a concealed handgun and a valid
27 license issued under Article 4413(29ee), Revised Statutes, to carry

1 a concealed handgun of the same category as the handgun the person
2 is carrying;

3 (7) holds a security officer commission and a personal
4 protection authorization issued by the Texas Board of Private
5 Investigators and Private Security Agencies and who is providing
6 personal protection under the Private Investigators and Private
7 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
8 Statutes); or

9 (8) holds an alcoholic beverage permit or license or
10 is an employee of a holder of an alcoholic beverage permit or
11 license if the person is supervising the operation of the permitted
12 or licensed premises.

13 (c) The provision of Section 46.02 prohibiting the carrying
14 of a club does not apply to a noncommissioned security guard at an
15 institution of higher education who carries a nightstick or similar
16 club, and who has undergone 15 hours of training in the proper use
17 of the club, including at least seven hours of training in the use
18 of the club for nonviolent restraint. For the purposes of this
19 subsection, "nonviolent restraint" means the use of reasonable
20 force, not intended and not likely to inflict bodily injury.

21 (d) The provisions of Section 46.02 prohibiting the carrying
22 of a firearm or carrying of a club do not apply to a public
23 security officer employed by the adjutant general under Section
24 431.029, Government Code, in performance of official duties or
25 while traveling to or from a place of duty.

26 SECTION 25. Section 1(10), Article 4413(29ee), Revised
27 Statutes, is repealed.

1 SECTION 26. (a) The changes in law made by this Act in
2 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
3 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
4 amending Sections 12.092 and 12.095, Health and Safety Code, as
5 added by Chapter 165, Acts of the 74th Legislature, Regular
6 Session, 1995, apply only to a person's initial application for a
7 license to carry a concealed handgun under Article 4413(29ee),
8 Revised Statutes, if the application is made on or after the
9 effective date of this Act. A person who makes an initial
10 application for a license to carry a concealed handgun under
11 Article 4413(29ee), Revised Statutes, before the effective date of
12 this Act is covered by the law that existed when the application
13 was made, and the former law is continued in effect for that
14 purpose.

15 (b) The changes in law made by this Act in repealing Section
16 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
17 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
18 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
19 of the 74th Legislature, Regular Session, 1995, regarding the
20 revocation of a license to carry a handgun, apply to any revocation
21 proceeding initiated on or after the effective date of this Act.

22 SECTION 27. Not later than September 1, 1998, a person who
23 before the effective date of this Act was licensed to carry a
24 concealed handgun under Article 4413(29ee), Revised Statutes, and
25 whose license was revoked on the sole basis that the person was
26 charged with the commission of a Class A or Class B misdemeanor or
27 an offense under Section 42.01, Penal Code, or a felony under an

LIST OF HOUSE AMENDMENTS CONSIDERED TODAY

HB2909-Second Reading

<u>AMENDMENT#</u>	<u>AUTHOR</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
1	Carter	Amendment	Adopted
2	Carter	Amendment	Adopted
3	Greenberg	Amendment	Tabled
4	Greenberg	Amendment	Withdrawn
5	Kamel	Amendment	Tabled
6	Allen	Amendment	Adopted
7	Bosse	Amendment	Tabled
8	King	Amendment	Tabled
9	Naishtat	Amendment	Tabled
10	Danburg	Amendment	No Action

ADOPTED

MAY 13 1997

Sharon Carter
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO.

①

BY

Carter

1 Amend C.S.H.B. No. 2909, on page 6, line 27 to page 7, line
2 1, between "necessary" and the comma, by striking "based on the
3 recommendation of the director's designee" and substituting "in the
4 event that a question exists with respect to the accuracy of the
5 application materials or the eligibility of the applicant".



ADOPTED

MAY 13 1997

Sharon Carter
Chief Clerk
House of Representatives

FLOOR AMENDMENT NO.

2

BY

Carter

Amend C.S.H.B. No. 2909 as follows:

(1) In SECTION 11 of the bill, on page 12, line 23, strike "Subsection (d)" and substitute "Subsections (d) and (e)".

(2) In SECTION 11 of the bill, on page 13, between lines 16 and 17, insert the following:

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.



ADOPTED

MAY 13 1997

Sharon Carter
Chief Clerk
House of Representatives

RU

FLOOR AMENDMENT NO.

⑥

BY ALLEN

1 Amend C.S.H.B. No. 2909 on page 4, between lines 17 and 18, by
2 inserting the following:

3 (3) Notwithstanding Subdivision (1), a person who has
4 previously been diagnosed as suffering from a psychiatric disorder
5 or condition described by Subdivision (1) or listed in Subdivision
6 (2) is not because of that disorder or condition incapable of
7 exercising sound judgement with respect to the proper use and
8 storage of a handgun if the the person provides the department with
9 a certificate from a licensed physician stating that the
10 psychiatric disorder or condition is in remission and is not
11 reasonably likely to develop at a future time.

2ND READING
ENGROSSMENT

By Carter, Chisum, Allen, Hupp, Wilson,
et al.

H.B. No. 2909

A BILL TO BE ENTITLED

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(a) of this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun [~~a-person-of~~

1 ~~unsound-mind~~];

2 (8) has not, in the five years preceding the date of
3 application, been convicted of a Class A or Class B misdemeanor or
4 an offense under Section 42.01, Penal Code;

5 (9) is fully qualified under applicable federal and
6 state law to purchase a handgun;

7 (10) has not been finally determined to be delinquent
8 in making a child support payment administered or collected by the
9 attorney general;

10 (11) has not been finally determined to be delinquent
11 in the payment of a tax or other money collected by the
12 comptroller, state treasurer, tax collector of a political
13 subdivision of the state, Texas Alcoholic Beverage Commission, or
14 any other agency or subdivision of the state;

15 (12) has not been finally determined to be in default
16 on a loan made under Chapter 57, Education Code;

17 (13) is not currently restricted under a court
18 protective order or subject to a restraining order affecting the
19 spousal relationship, not including a restraining order solely
20 affecting property interests;

21 (14) has not, in the 10 years preceding the date of
22 application, been adjudicated as having engaged in delinquent
23 conduct violating a penal law of the grade of felony; and

24 (15) has not made any material misrepresentation, or
25 failed to disclose any material fact, in an application submitted
26 pursuant to Section 3 of this article or in a request for
27 application submitted pursuant to Section 4 of this article.

1 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,
2 is amended by adding Subsection (d) to read as follows:

3 (d)(1) For purposes of Subsection (a)(7) of this section, a
4 person is incapable of exercising sound judgment with respect to
5 the proper use and storage of a handgun if:

6 (A) the person has been diagnosed by a licensed
7 physician as suffering from a psychiatric disorder or condition
8 that causes or is likely to cause substantial impairment in
9 judgment, mood, perception, impulse control, or intellectual
10 ability;

11 (B) the person suffers from a psychiatric
12 disorder or condition described by Paragraph (A) of this
13 subdivision that:

14 (i) is in remission but is reasonably
15 likely to redevelop at a future time; or

16 (ii) requires continuous medical treatment
17 to avoid redevelopment;

18 (C) the person has been diagnosed by a licensed
19 physician or declared by a court to be incompetent to manage the
20 person's own affairs; or

21 (D) the person has entered in any criminal
22 proceeding a plea of not guilty by reason of insanity.

23 (2) The following are evidence that a person has a
24 psychiatric disorder or condition described by Subdivision (1)(A)
25 of this subsection:

26 (A) involuntary psychiatric hospitalization in
27 the preceding five-year period;

1 (B) psychiatric hospitalization in the preceding
2 two-year period;

3 (C) inpatient or residential substance abuse
4 treatment in the preceding five-year period;

5 (D) diagnosis in the preceding five-year period
6 by a licensed physician that the person is dependent on alcohol, a
7 controlled substance, or a similar substance; or

8 (E) diagnosis at any time by a licensed
9 physician that the person suffers or has suffered from a
10 psychiatric disorder or condition consisting of or relating to:

11 (i) schizophrenia or delusional disorder;
12 (ii) bipolar disorder;
13 (iii) chronic dementia, whether caused by
14 illness, brain defect, or brain injury;

15 (iv) dissociative identity disorder;
16 (v) intermittent explosive disorder; or
17 (vi) antisocial personality disorder.

18 (3) Notwithstanding Subdivision (1), a person who has
19 previously been diagnosed as suffering from a psychiatric disorder
20 or condition described by Subdivision (1) or listed in Subdivision
21 (2) is not because of that disorder or condition incapable of
22 exercising sound judgment with respect to the proper use and
23 storage of a handgun if the person provides the department with a
24 certificate from a licensed physician stating that the psychiatric
25 disorder or condition is in remission and is not reasonably likely
26 to develop at a future time.

27 SECTION 3. Section 3(a), Article 4413(29ee), Revised

Statutes, is amended to read as follows:

(a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 5 of this article:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b) of this section;

(2) two recent color passport photographs of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person ~~[employed-by-a--law enforcement--agency--who--is]~~ appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this article;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 17 of this article;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this article that creates an offense under the laws of this state

1 and each provision of the laws of this state related to use of
2 deadly force; and

3 (B) fulfills all the eligibility requirements
4 listed under Section 2 of this article; and

5 (9) a form executed by the applicant that authorizes
6 the director to make an inquiry into any noncriminal history
7 records that are necessary to determine the applicant's eligibility
8 for a license under Section 2(a) of this article.

9 SECTION 4. Section 5(b), Article 4413(29ee), Revised
10 Statutes, is amended to read as follows:

11 (b) The director's designee as needed shall conduct an
12 additional criminal history record check of the applicant and an
13 investigation of the applicant's local official records to verify
14 the accuracy of the application materials. The scope of the record
15 check and the investigation are at the sole discretion of the
16 department, except that the director's designee shall complete the
17 record check and investigation not later than 60 days after the
18 date the department receives the application materials. The
19 department shall send a fingerprint card to the Federal Bureau of
20 Investigation for a national criminal history check of the
21 applicant. On completion of the investigation, the director's
22 designee shall return all materials and the result of the
23 investigation to the appropriate division of the department at its
24 Austin headquarters. The director's designee may submit to the
25 appropriate division of the department, at the department's Austin
26 headquarters, along with the application materials a written
27 recommendation for disapproval of the application, accompanied by

1 an affidavit stating personal knowledge or naming persons with
2 personal knowledge of a ground for denial under Section 2 of this
3 article. The director's designee in the appropriate geographical
4 area may also submit the application and the recommendation that
5 the license be issued. On receipt at the department's Austin
6 headquarters of the application materials and the result of the
7 investigation by the director's designee, the department shall
8 conduct any further record check or investigation the department
9 determines is necessary in the event that a question exists with
10 respect to the accuracy of the application materials or the
11 eligibility of the applicant, except that the department shall
12 complete the record check and investigation not later than 180 days
13 after the date the department receives the application materials
14 from the applicant.

15 SECTION 5. Section 6(b), Article 4413(29ee), Revised
16 Statutes, is amended to read as follows:

17 (b)[+] Not [~~After-January-17-1997--the--department--not~~]
18 later than the 60th day after the date of the receipt by the
19 director's designee of the completed application materials, the
20 department shall:

21 (1) [+] issue the license; [~~or~~]

22 (2) [+] notify the applicant in writing that the
23 application was denied:

24 (A) [+] on the grounds that the applicant
25 failed to qualify under the criteria listed in Section 2 of this
26 article;

27 (B) [+] based on the affidavit of the

1 director's designee submitted to the department under Section 5(b)
2 of this article; or

3 (C) [†iii] based on the affidavit of the
4 qualified handgun instructor submitted to the department under
5 Section 17(c) of this article; or

6 (3) notify the applicant in writing that the
7 department is unable to make a determination regarding the issuance
8 or denial of a license to the applicant within the 60-day period
9 prescribed by this subsection and include in that notification an
10 explanation of the reason for the inability and an estimation of
11 the amount of time the department will need to make the
12 determination.

13 ~~[(2)--Between-the-effective-date-of--this--article--and~~
14 ~~December--31--1996,--the--department--shall--perform--the--duties--set--out~~
15 ~~in--this--subsection--not--later--than--the--90th--day--after--the--date--of~~
16 ~~the--receipt--by--the--director's--designee--of--the--completed--application~~
17 ~~materials.]~~

18 SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee),
19 Revised Statutes, are amended and relettered to read as follows:

20 (g) ~~[On-a-demand-by-a-magistrate-or-a-peace-officer--that--a~~
21 ~~license--holder--display--the--license-holder's--handgun--license,--the~~
22 ~~license-holder--shall--display--both--the--license--and--the--license~~
23 ~~holder's--driver's--license--or--identification--certificate--issued--by~~
24 ~~the--department.]~~

25 [†h] If a license holder is carrying a handgun on or about
26 the license holder's person when a magistrate or a peace officer
27 demands that the license holder display identification, the license

holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 13 of this article.

(h) [~~+~~] A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (g) [~~or-(h)~~] of this section after previously having had the person's license suspended for a violation of that subsection.

An offense under this subsection is a Class B misdemeanor.

SECTION 7. Section 12(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 2 of this article, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment; [~~or~~]

(4) is convicted of an offense under Section 46.035, Penal Code; or

(5) is determined by the department to have engaged in

1 conduct constituting a reason to suspend a license listed in
2 Section 13(a) of this article after the person's license has been
3 previously suspended twice for the same reason.

4 SECTION 8. Sections 13(a) and (c), Article 4413(29ee),
5 Revised Statutes, are amended to read as follows:

6 (a) A license may be suspended under this section if the
7 license holder:

8 (1) is charged with the commission of a Class A or
9 Class B misdemeanor or an offense [~~convicted-of-disorderly--conduct~~
10 ~~punishable--as--a--Class--C-misdemeanor~~] under Section 42.01, Penal
11 Code, or of a felony under an information or indictment;

12 (2) fails to display a license as required by Section
13 6 of this article;

14 (3) fails to notify the department of a change of
15 address or name as required by Section 8 of this article;

16 (4) carries a concealed handgun under the authority of
17 this article of a different category than the license holder is
18 licensed to carry; or

19 (5) [~~has---been---charged---by---indictment---with---the~~
20 ~~commission-of--an--offense--that--would--make--the--license--holder~~
21 ~~ineligible-for-a-license-on-conviction;-or~~

22 [~~6~~] fails to return a previously issued license
23 after a license is modified as required by Section 10(d) of this
24 article.

25 (c) A license may be suspended under this section:

26 (1) for 30 days, if the person's license is subject to
27 suspension for a reason listed in Subsection (a)(3), (4), or (5) of

1 this section, except as provided by Subdivision (3) of this
2 subsection;

3 (2) for 90 days, if the person's license is subject to
4 suspension for a reason listed in Subsection (a)(2) of this
5 section, except as provided by Subdivision (3) of this subsection;

6 (3) for not less than one year and not more than three
7 years if the person's license is subject to suspension for a reason
8 listed in Subsection (a) of this section, other than the reason
9 listed in Subsection (a)(1) of this section, and the person's
10 license has been previously suspended for the same reason; or

11 (4) until dismissal of the charges, if the person's
12 license is subject to suspension for the reason listed in
13 Subsection (a)(1) of this section.

14 SECTION 9. Section 17(c), Article 4413(29ee), Revised
15 Statutes, is amended to read as follows:

16 (c) A qualified handgun instructor may submit to the
17 department a written recommendation for disapproval of the
18 application for a license, renewal, or modification of a license,
19 accompanied by an affidavit stating personal knowledge or naming
20 persons with personal knowledge of facts that lead the instructor
21 to believe that an applicant is not qualified for handgun
22 proficiency certification. The department may use a written
23 recommendation submitted under this subsection as the basis for
24 denial of a license only if the department determines that the
25 recommendation is made in good faith and is supported by a
26 preponderance of the evidence. The department shall make a
27 determination under this subsection not later than the 45th day

1 after the date the department receives the written recommendation.
2 The 60-day period in which the department must take action under
3 Section 6(b) of this article is extended one day for each day a
4 determination is pending under this subsection.

5 SECTION 10. Sections 18(c) and (f), Article 4413(29ee),
6 Revised Statutes, are amended to read as follows:

7 (c) The department shall provide training to an individual
8 who applies for certification as a qualified handgun instructor.
9 An applicant shall pay a fee of \$100 to the department for the
10 training. An applicant must take and successfully complete the
11 training offered by the department and pay the training fee before
12 the department may certify the applicant as a qualified handgun
13 instructor. The department shall issue ~~[waive--the--requirements~~
14 ~~regarding--a--handgun-proficiency-certification-under-Section-17-of~~
15 ~~this-article-for-an-applicant-for]~~ a license to carry a concealed
16 handgun under the authority of this article to any person who is
17 certified as a qualified handgun instructor and who pays to the
18 department a fee of \$100 in addition to ~~[takes-and-successfully~~
19 ~~completes-training-under-this-subsection--and--pays]~~ the training
20 fee. The department by rule may prorate or waive the training fee
21 for an employee of another governmental entity.

22 (f) If the department determines that a reason exists to
23 revoke, suspend, or deny a license to carry a concealed handgun
24 with respect to a person who is a qualified handgun instructor or
25 an applicant for certification as a qualified handgun instructor,
26 the department shall take that action against the person's license
27 to carry a concealed handgun, if the person is an applicant for or

1 the holder of such a license, and the person's certification as a
2 qualified handgun instructor [~~regardless of whether the person has~~
3 ~~a license issued under this article to carry a concealed handgun~~].

4 SECTION 11. Section 31, Article 4413(29ee), Revised
5 Statutes, is amended by amending Subsections (a) and (c) and adding
6 Subsections (d) and (e) to read as follows:

7 (a) A business that has a permit or license issued under
8 Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic Beverage Code, and
9 that derives 51 percent or more of its income from the sale of
10 alcoholic beverages for on-premises consumption as determined by
11 the Texas Alcoholic Beverage Commission under Section 104.06,
12 Alcoholic Beverage Code, shall prominently display at each entrance
13 to the business premises a sign that complies with the requirements
14 of Subsection (c) of this section.

15 (c) The sign required under Subsections (a) and (b) of this
16 section must give notice in both English and Spanish that it is
17 unlawful for a person licensed under this article to carry a
18 handgun on the premises. The sign must appear in contrasting
19 colors with block letters at least one inch in height and must
20 include on its face the number "51" printed in solid red at least
21 five inches in height. The sign shall be displayed in a
22 conspicuous manner clearly visible to the public.

23 (d) A business that has a permit or license issued under the
24 Alcoholic Beverage Code and that is not required to display a sign
25 under this section may be required to display a sign under Section
26 11.041 or Section 61.11, Alcoholic Beverage Code.

27 (e) This section does not apply to a business that has a

1 food and beverage certificate issued under the Alcoholic Beverage
2 Code.

3 SECTION 12. Section 35, Article 4413(29ee), Revised
4 Statutes, is amended to read as follows:

5 Sec. 35. NONRESIDENT [~~RECIPROCAL~~] LICENSE. (a) The
6 department by rule shall establish a procedure for a person who is
7 a legal resident of a state that does not provide for the issuance
8 of a license to carry a concealed handgun and who meets the
9 eligibility requirements of this article other than the residency
10 requirement established by Section 2(a)(1) of this article to
11 obtain a license under this article. The procedure shall include
12 payment of a fee in an amount sufficient to recover the average
13 cost to the department of obtaining a criminal history record check
14 and investigation on a nonresident applicant.

15 (b) The department shall negotiate an agreement with any
16 other state that provides for the issuance of a license to carry a
17 concealed handgun under which a license issued by the other state
18 is recognized in this state [~~On-application-by-a-person-who--has--a~~
19 ~~valid-license-to-carry-a-concealed-handgun-issued-by-another-state,~~
20 ~~the-department-may-issue-to-the-person-a-license-under-this-article~~
21 ~~without--requiring-that-the-person-meet-eligibility-requirements-or~~
22 ~~pay-fees-otherwise-imposed-under-this-article,~~~~--but--only~~] if the
23 department determines that:

24 (1) the eligibility requirements imposed by the other
25 state include background check requirements that meet or exceed
26 background check [~~are--at--least-as-rigorous-as-the~~] requirements
27 imposed by federal law as a condition of receiving a handgun [~~this~~

1 ~~article~~]; and

2 (2) the other state recognizes [~~provides-reciprocal~~
3 ~~licensing-privileges-to-a-person-who-holds~~] a license issued in
4 ~~[under]~~ this [~~article--and--applies--for--a--license-in-the-other~~]
5 state.

6 SECTION 13. Chapter 11, Alcoholic Beverage Code, is amended
7 by adding Section 11.041 to read as follows:

8 Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a
9 permit who is not otherwise required to display a sign under
10 Section 31, Article 4413(29ee), Revised Statutes, shall display in
11 a prominent place on the permit holder's premises a sign giving
12 notice that it is unlawful for a person to carry a weapon on the
13 premises unless the weapon is a concealed handgun of the same
14 category the person is licensed to carry under Article 4413(29ee),
15 Revised Statutes.

16 (b) The sign must be at least 6 inches high and 14 inches
17 wide, must appear in contrasting colors, and shall be displayed in
18 a conspicuous manner clearly visible to the public. The commission
19 or administrator may require the permit holder to also display the
20 sign in a language other than English if it can be observed or
21 determined that a substantial portion of the expected customers
22 speak the other language as their familiar language.

23 SECTION 14. Section 11.61(e), Alcoholic Beverage Code, is
24 amended to read as follows:

25 (e) Except as provided by Subsection (f), the commission or
26 administrator shall cancel an original or renewal permit if it is
27 found, after notice and hearing, that the permittee knowingly

1 allowed a person to possess a firearm in a building on the licensed
2 premises. This subsection does not apply to a person:

3 (1) who holds a security officer commission issued by
4 the Texas Board of Private Investigators and Private Security
5 Agencies, if:

6 (A) the person is engaged in the performance of
7 the person's duties as a security officer;

8 (B) the person is wearing a distinctive uniform;
9 and

10 (C) the weapon is in plain view;

11 (2) who is a peace officer; [or]

12 (3) who is a permittee or an employee of a permittee
13 if the person is supervising the operation of the premises; or

14 (4) who possesses a concealed handgun of the same
15 category the person is licensed to carry under Article 4413(29ee),
16 Revised Statutes, unless the person is on the premises of a
17 business described by Section 46.035(b)(1), Penal Code.

18 SECTION 15. Section 61.11, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a
21 license who is not otherwise required to display a sign under
22 Section 31, Article 4413(29ee), Revised Statutes, shall display in
23 a prominent place on the license holder's [his] premises a sign
24 giving notice that it is unlawful for a person to carry a weapon on
25 the premises unless the weapon is a concealed handgun of the same
26 category the person is licensed to carry under Article 4413(29ee),
27 Revised Statutes.

1 **(b) The sign must be [7] at least 6 inches high and 14**
2 **inches wide, must appear in contrasting colors, and shall be**
3 **displayed in a conspicuous manner clearly visible to the public**
4 **[stating:---FELONY.---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN**
5 **YEARS--IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING**
6 **WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD, SERVED, OR CONSUMED].**

7 The commission or administrator may require the holder of the
8 license to also display the sign in a language other than English
9 if it can be observed or determined that a substantial portion of
10 the expected customers speak the other language as their familiar
11 language.

12 **[(b)--A--licensee--who--violates--this--section---commits---a**
13 **misdemeanor-punishable-by-a-fine-of-not-more-than-\$25.]**

14 SECTION 16. Section 61.71(f), Alcoholic Beverage Code, is
15 amended to read as follows:

16 (f) Except as provided by Subsection (g), the commission or
17 administrator shall cancel an original or renewal dealer's
18 on-premises or off-premises license if it is found, after notice
19 and hearing, that the licensee knowingly allowed a person to
20 possess a firearm in a building on the licensed premises. This
21 subsection does not apply to a person:

22 (1) who holds a security officer commission issued by
23 the Texas Board of Private Investigators and Private Security
24 Agencies, if:

25 (A) the person is engaged in the performance of
26 the person's duties as a security officer;

27 (B) the person is wearing a distinctive uniform;

1 and

2 (C) the weapon is in plain view;

3 (2) who is a peace officer; [or]

4 (3) who is a licensee or an employee of a licensee if
5 the person is supervising the operation of the premises; or

6 (4) who possesses a concealed handgun of the same
7 category the person is licensed to carry under Article 4413(29ee),
8 Revised Statutes, unless the person is on the premises of a
9 business described by Section 46.035(b)(1), Penal Code.

10 SECTION 17. Chapter 104, Alcoholic Beverage Code, is amended
11 by adding Section 104.06 to read as follows:

12 Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the
13 issuance and renewal of a license or permit that allows on-premises
14 consumption of any alcoholic beverage the commission shall
15 determine whether the holder receives, or for the issuance of a
16 license or permit is to receive, 51 percent or more of the gross
17 receipts of the premises for which the license or permit is issued
18 from the holder's sale or service of alcoholic beverages for
19 on-premises consumption.

20 (b) The commission shall:

21 (1) adopt rules for making a determination under
22 Subsection (a); and

23 (2) require a holder of a license or permit to provide
24 any information or document that the commission needs to make a
25 determination.

26 (c) If the commission makes a determination under Subsection
27 (a) that a holder of a license or permit receives 51 percent or

1 more of the gross receipts of the premises from the sale or service
2 of alcoholic beverages, the holder shall comply with the
3 requirements of Section 31, Article 4413(29ee), Revised Statutes,
4 and shall continue to comply with those requirements until the
5 commission determines that the holder receives less than 51 percent
6 of the gross receipts of the premises from the sale or service of
7 alcoholic beverages for on-premises consumption.

8 SECTION 18. Section 12.092(b), Health and Safety Code, as
9 added by Chapter 165, Acts of the 74th Legislature, Regular
10 Session, 1995, is amended to read as follows:

11 (b) The medical advisory board shall assist the Department
12 of Public Safety of the State of Texas in determining whether:

13 (1) an applicant for a driver's license or a license
14 holder is capable of safely operating a motor vehicle; or

15 (2) an applicant for or holder of a license to carry a
16 concealed handgun under the authority of Article 4413(29ee),
17 Revised Statutes, is capable of exercising sound judgment with
18 respect to the proper use and storage of a handgun.

19 SECTION 19. Sections 12.095(a), (c), and (d), Health and
20 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
21 Regular Session, 1995, are amended to read as follows:

22 (a) If the Department of Public Safety of the State of Texas
23 requests an opinion or recommendation from the medical advisory
24 board as to the ability of an applicant or license holder to
25 operate a motor vehicle safely or to exercise sound judgment with
26 respect to the proper use and storage of a handgun, the
27 commissioner or a person designated by the commissioner shall

1 convene a panel to consider the case or question submitted by that
2 department.

3 (c) Each panel member shall prepare an individual
4 independent written report for the Department of Public Safety of
5 the State of Texas that states the member's opinion as to the
6 ability of the applicant or license holder to operate a motor
7 vehicle safely or to exercise sound judgment with respect to the
8 proper use and storage of a handgun, as appropriate. In the report
9 the panel member may also make recommendations relating to that
10 department's subsequent action.

11 (d) In its deliberations, a panel may examine any medical
12 record or report that contains material that may be relevant to the
13 ability of the applicant or license holder [~~to operate a motor~~
14 ~~vehicle safely~~].

15 SECTION 20. Chapter 30, Penal Code, is amended by adding
16 Section 30.06 to read as follows:

17 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED
18 HANDGUN. (a) A license holder commits an offense if the license
19 holder:

20 (1) carries a handgun under the authority of Article
21 4413(29ee), Revised Statutes, on property of another without
22 effective consent; and

23 (2) received notice that:

24 (A) entry on the property by a license holder
25 with a concealed handgun was forbidden; or

26 (B) remaining on the property with a concealed
27 handgun was forbidden and failed to depart.

1 (b) For purposes of this section, a person receives notice
2 if the owner of the property or someone with apparent authority to
3 act for the owner provides notice to the person by oral and written
4 communication.

5 (c) In this section:

6 (1) "Entry" has the meaning assigned by Section
7 30.05(b).

8 (2) "License holder" has the meaning assigned by
9 Section 46.035(f).

10 (d) An offense under this section is a Class A misdemeanor.

11 SECTION 21. Section 46.02, Penal Code, is amended to read as
12 follows:

13 Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person
14 commits an offense if he intentionally, knowingly, or recklessly
15 carries on or about his person a handgun, illegal knife, or club.

16 (b) ~~[It is a defense to prosecution under this section--that~~
17 ~~the actor was, at the time of the commission of the offense:~~

18 ~~[(1)--in the actual discharge of his official duties as~~
19 ~~a member of the armed forces or state military forces as defined by~~
20 ~~Section 431.001, Government Code, or as a guard employed by a penal~~
21 ~~institution;~~

22 ~~[(2)--on his own premises or premises under his control~~
23 ~~unless--he is an employee or agent of the owner of the premises and~~
24 ~~his primary responsibility is to act in the capacity of a--security~~
25 ~~guard to protect persons or property, in which event he must comply~~
26 ~~with Subdivision (5);~~

27 ~~[(3)--traveling;~~

1 [(4) --engaging--in--lawful--hunting,--fishing,--or--other
2 sporting-activity-on-the-immediate-premises-where-the--activity--is
3 conducted,--or--was--directly-en-route-between-the-premises-and-the
4 actor's-residence,--if-the-weapon-is-a-type--commonly--used--in--the
5 activity;

6 [(5) --a--person-who-holds-a-security-officer-commission
7 issued-by-the-Texas-Board--of--Private--Investigators--and--Private
8 Security-Agencies,--if:

9 [(A) --he--is--engaged--in--the-performance-of-his
10 duties-as-a-security-officer-or-traveling-to-and-from-his-place--of
11 assignment;

12 [(B) --he-is-wearing-a-distinctive-uniform,--and

13 [(C) --the-weapon-is-in-plain-view,--or

14 [(7) --carrying--a-concealed-handgun-and-a-valid-license
15 issued-under-Article--4413(29ee),--Revised--Statutes,--to--carry--a
16 concealed-handgun-of-the-same-category-as-the-handgun-the-person-is
17 carrying.

18 [(7) --a--person-who-holds-a-security-officer-commission
19 and-a-personal-protection-authorization-issued-by-the--Texas--Board
20 of--Private--Investigators-and-Private-Security-Agencies-and-who-is
21 providing-personal-protection-under-the-Private--Investigators--and
22 Private--Security--Agencies-Act-(Article-4413(29bb),--Vernon's-Texas
23 Civil-Statutes);

24 [(7) --a-holder--of--an--alcoholic--beverage--permit--or
25 license--or-an-employee-of-a-holder-of-an-alcoholic-beverage-permit
26 or-license-if--the--actor--is--supervising--the--operation--of--the
27 permitted-or-licensed-premises.

[~~(c)~~]~~--It--is--a--defense--to--prosecution--under--this--section--for~~
~~the--offense--of--carrying--a--club--that--the--actor--was,--at--the--time--of~~
~~the--commission--of--the--offense,--a--noncommissioned--security--guard--at~~
~~an--institution--of--higher--education--who--carried--a--nightstick--or~~
~~similar--club,--and--who--had--undergone--15--hours--of--training--in--the~~
~~proper--use--of--the--club,--including--at--least--seven--hours--of--training~~
~~in--the--use--of--the--club--for--nonviolent--restraint.---For--the--purposes~~
~~of--this--section,--"nonviolent--restraint"--means--the--use--of--reasonable~~
~~force,--not--intended--and--not--likely--to--inflict--bodily--injury.~~

[~~(d)~~]~~--It--is--a--defense--to--prosecution--under--this--section--for~~
~~the--offense--of--carrying--a--firearm--or--carrying--a--club--that--the--actor~~
~~was,--at--the--time--of--the--commission--of--the--offense,--a--public~~
~~security--officer--employed--by--the--adjutant--general--under--Section~~
~~431.029,--Government--Code,--and--was--performing--official--duties--or~~
~~traveling--to--or--from--a--place--of--duty.~~

[~~(e)~~] Except as provided by Subsection (c) [~~(f)~~], an offense under this section is a Class A misdemeanor.

(c) [~~(f)~~] An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages.

SECTION 22. Sections 46.03(b) and (c), Penal Code, are amended to read as follows:

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a [~~peace-officer--or--a~~] member of the armed forces or national guard or a guard employed by a

1 penal institution, or an officer of the court.

2 (c) In this section:

3 (1) "Premises" has the meaning assigned by Section
4 46.035.

5 (2) "Secured [~~"secured~~] area" means an area of an
6 airport terminal building to which access is controlled by the
7 inspection of persons and property under federal law.

8 SECTION 23. Section 46.035(b), Penal Code, is amended to
9 read as follows:

10 (b) A license holder commits an offense if the license
11 holder intentionally, knowingly, or recklessly carries a handgun
12 under the authority of Article 4413(29ee), Revised Statutes,
13 regardless of whether the handgun is concealed, on or about the
14 license holder's person:

15 (1) on the premises of a business that has a permit or
16 license issued under Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic
17 Beverage Code, if the business derives 51 percent or more of its
18 income from the sale or service of alcoholic beverages for
19 on-premises consumption, as determined by the Texas Alcoholic
20 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

21 (2) on the premises where a high school, collegiate,
22 or professional sporting event or interscholastic event is taking
23 place, unless the license holder is a participant in the event and
24 a handgun is used in the event;

25 (3) on the premises of a correctional facility;

26 (4) on the premises of a hospital licensed under
27 Chapter 241, Health and Safety Code, or on the premises of a

nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

SECTION 24. Section 46.15, Penal Code, is amended to read as follows:

Sec. 46.15. NONAPPLICABILITY [TO-----PEACE-----OFFICERS].

(a) Sections 46.02 and 46.03 do not apply to peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) is on the person's own premises or premises under the person's control unless the person is an employee or agent of the owner of the premises and the person's primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event the person must comply with Subdivision (5);

(3) is traveling;

(4) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is

1 conducted, or is directly en route between the premises and the
2 actor's residence, if the weapon is a type commonly used in the
3 activity;

4 (5) holds a security officer commission issued by the
5 Texas Board of Private Investigators and Private Security Agencies,
6 if:

7 (A) the person is engaged in the performance of
8 the person's duties as a security officer or traveling to and from
9 the person's place of assignment;

10 (B) the person is wearing a distinctive uniform;
11 and

12 (C) the weapon is in plain view;

13 (6) is carrying a concealed handgun and a valid
14 license issued under Article 4413(29ee), Revised Statutes, to carry
15 a concealed handgun of the same category as the handgun the person
16 is carrying;

17 (7) holds a security officer commission and a personal
18 protection authorization issued by the Texas Board of Private
19 Investigators and Private Security Agencies and who is providing
20 personal protection under the Private Investigators and Private
21 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
22 Statutes); or

23 (8) holds an alcoholic beverage permit or license or
24 is an employee of a holder of an alcoholic beverage permit or
25 license if the person is supervising the operation of the permitted
26 or licensed premises.

27 (c) The provision of Section 46.02 prohibiting the carrying

1 of a club does not apply to a noncommissioned security guard at an
2 institution of higher education who carries a nightstick or similar
3 club, and who has undergone 15 hours of training in the proper use
4 of the club, including at least seven hours of training in the use
5 of the club for nonviolent restraint. For the purposes of this
6 subsection, "nonviolent restraint" means the use of reasonable
7 force, not intended and not likely to inflict bodily injury.

8 (d) The provisions of Section 46.02 prohibiting the carrying
9 of a firearm or carrying of a club do not apply to a public
10 security officer employed by the adjutant general under Section
11 431.029, Government Code, in performance of official duties or
12 while traveling to or from a place of duty.

13 SECTION 25. Section 1(10), Article 4413(29ee), Revised
14 Statutes, is repealed.

15 SECTION 26. (a) The changes in law made by this Act in
16 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
17 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
18 amending Sections 12.092 and 12.095, Health and Safety Code, as
19 added by Chapter 165, Acts of the 74th Legislature, Regular
20 Session, 1995, apply only to a person's initial application for a
21 license to carry a concealed handgun under Article 4413(29ee),
22 Revised Statutes, if the application is made on or after the
23 effective date of this Act. A person who makes an initial
24 application for a license to carry a concealed handgun under
25 Article 4413(29ee), Revised Statutes, before the effective date of
26 this Act is covered by the law that existed when the application
27 was made, and the former law is continued in effect for that

1 purpose.

2 (b) The changes in law made by this Act in repealing Section
3 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
4 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
5 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
6 of the 74th Legislature, Regular Session, 1995, regarding the
7 revocation of a license to carry a handgun, apply to any revocation
8 proceeding initiated on or after the effective date of this Act.

9 SECTION 27. Not later than September 1, 1998, a person who
10 before the effective date of this Act was licensed to carry a
11 concealed handgun under Article 4413(29ee), Revised Statutes, and
12 whose license was revoked on the sole basis that the person was
13 charged with the commission of a Class A or Class B misdemeanor or
14 an offense under Section 42.01, Penal Code, or a felony under an
15 information or indictment may apply to the department to change the
16 status of the person's license in accordance with Sections 12 and
17 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
18 The Department of Public Safety shall promptly place the person's
19 license on suspension, if the charges against the person are still
20 pending, or reinstate the person's license, if the charges against
21 the person have been dismissed.

22 SECTION 28. Not later than December 1, 1997, the Department
23 of Public Safety shall establish the procedure and shall commence
24 any negotiation required by Section 35, Article 4413(29ee), Revised
25 Statutes, as amended by this Act.

26 SECTION 29. (a) The Texas Alcoholic Beverage Commission
27 shall:

1 (1) not later than October 1, 1997, adopt the rules
2 required by Section 104.06, Alcoholic Beverage Code, as added by
3 this Act; and

4 (2) at the time of the issuance or the first renewal
5 of a license or permit under the Alcoholic Beverage Code, that
6 allows on-premises consumption of any alcoholic beverage and that
7 occurs on or after October 1, 1997, make the initial determination
8 required by Section 104.06, Alcoholic Beverage Code, as added by
9 this Act.

10 (b) The change in law made by this Act to Section 31,
11 Article 4413(29ee), Revised Statutes, applies only to the display
12 of a sign on or after the date the Texas Alcoholic Beverage
13 Commission makes an initial determination under Section 104.06,
14 Alcoholic Beverage Code, as added by this Act, in accordance with
15 Subsection (a)(2) of this section, with respect to the holder of a
16 license or permit who conducts business on the premises for which
17 the determination is made.

18 (c) The change in law made by this Act to Section 46.035,
19 Penal Code, relating to the Texas Alcoholic Beverage Commission's
20 determination of the percentage of income derived from the sale or
21 service of alcoholic beverages for on-premises consumption applies
22 only to an offense committed on or after October 1, 1998. For
23 purposes of this section, an offense is committed before October 1,
24 1998, if any element of the offense occurs before that date.

25 SECTION 30. The changes in law made by this Act to Sections
26 46.02, 46.03, and 46.15, Penal Code, apply only to an offense
27 committed on or after the effective date of this Act. An offense

1 committed before the effective date of this Act is covered by the
2 law in effect when the offense was committed, and the former law is
3 continued in effect for that purpose. For purposes of this
4 section, an offense was committed before the effective date of this
5 Act if any element of the offense occurred before that date.

6 SECTION 31. This Act takes effect September 1, 1997.

7 SECTION 32. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended.

HOUSE ENGROSSMENT

By Carter, Chisum, Allen, Hupp, Wilson,
et al.

H.B. No. 2909

A BILL TO BE ENTITLED

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(a) of this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun [~~a person-of~~

1 unsound-mind];

2 (8) has not, in the five years preceding the date of
3 application, been convicted of a Class A or Class B misdemeanor or
4 an offense under Section 42.01, Penal Code;

5 (9) is fully qualified under applicable federal and
6 state law to purchase a handgun;

7 (10) has not been finally determined to be delinquent
8 in making a child support payment administered or collected by the
9 attorney general;

10 (11) has not been finally determined to be delinquent
11 in the payment of a tax or other money collected by the
12 comptroller, state treasurer, tax collector of a political
13 subdivision of the state, Texas Alcoholic Beverage Commission, or
14 any other agency or subdivision of the state;

15 (12) has not been finally determined to be in default
16 on a loan made under Chapter 57, Education Code;

17 (13) is not currently restricted under a court
18 protective order or subject to a restraining order affecting the
19 spousal relationship, not including a restraining order solely
20 affecting property interests;

21 (14) has not, in the 10 years preceding the date of
22 application, been adjudicated as having engaged in delinquent
23 conduct violating a penal law of the grade of felony; and

24 (15) has not made any material misrepresentation, or
25 failed to disclose any material fact, in an application submitted
26 pursuant to Section 3 of this article or in a request for
27 application submitted pursuant to Section 4 of this article.

1 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,
2 is amended by adding Subsection (d) to read as follows:

3 (d)(1) For purposes of Subsection (a)(7) of this section, a
4 person is incapable of exercising sound judgment with respect to
5 the proper use and storage of a handgun if:

6 (A) the person has been diagnosed by a licensed
7 physician as suffering from a psychiatric disorder or condition
8 that causes or is likely to cause substantial impairment in
9 judgment, mood, perception, impulse control, or intellectual
10 ability;

11 (B) the person suffers from a psychiatric
12 disorder or condition described by Paragraph (A) of this
13 subdivision that:

14 (i) is in remission but is reasonably
15 likely to redevelop at a future time; or

16 (ii) requires continuous medical treatment
17 to avoid redevelopment;

18 (C) the person has been diagnosed by a licensed
19 physician or declared by a court to be incompetent to manage the
20 person's own affairs; or

21 (D) the person has entered in any criminal
22 proceeding a plea of not guilty by reason of insanity.

23 (2) The following are evidence that a person has a
24 psychiatric disorder or condition described by Subdivision (1)(A)
25 of this subsection:

26 (A) involuntary psychiatric hospitalization in
27 the preceding five-year period;

1 (B) psychiatric hospitalization in the preceding
2 two-year period;

3 (C) inpatient or residential substance abuse
4 treatment in the preceding five-year period;

5 (D) diagnosis in the preceding five-year period
6 by a licensed physician that the person is dependent on alcohol, a
7 controlled substance, or a similar substance; or

8 (E) diagnosis at any time by a licensed
9 physician that the person suffers or has suffered from a
10 psychiatric disorder or condition consisting of or relating to:

11 (i) schizophrenia or delusional disorder;
12 (ii) bipolar disorder;
13 (iii) chronic dementia, whether caused by
14 illness, brain defect, or brain injury;

15 (iv) dissociative identity disorder;
16 (v) intermittent explosive disorder; or
17 (vi) antisocial personality disorder.

18 (3) Notwithstanding Subdivision (1), a person who has
19 previously been diagnosed as suffering from a psychiatric disorder
20 or condition described by Subdivision (1) or listed in Subdivision
21 (2) is not because of that disorder or condition incapable of
22 exercising sound judgment with respect to the proper use and
23 storage of a handgun if the person provides the department with a
24 certificate from a licensed physician stating that the psychiatric
25 disorder or condition is in remission and is not reasonably likely
26 to develop at a future time.

27 SECTION 3. Section 3(a), Article 4413(29ee), Revised

Statutes, is amended to read as follows:

(a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 5 of this article:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b) of this section;

(2) two recent color passport photographs of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person [~~employed-by-a-law enforcement--agency--who--is~~] appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this article;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 17 of this article;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this article that creates an offense under the laws of this state

1 and each provision of the laws of this state related to use of
2 deadly force; and

3 (B) fulfills all the eligibility requirements
4 listed under Section 2 of this article; and

5 (9) a form executed by the applicant that authorizes
6 the director to make an inquiry into any noncriminal history
7 records that are necessary to determine the applicant's eligibility
8 for a license under Section 2(a) of this article.

9 SECTION 4. Section 5(b), Article 4413(29ee), Revised
10 Statutes, is amended to read as follows:

11 (b) The director's designee as needed shall conduct an
12 additional criminal history record check of the applicant and an
13 investigation of the applicant's local official records to verify
14 the accuracy of the application materials. The scope of the record
15 check and the investigation are at the sole discretion of the
16 department, except that the director's designee shall complete the
17 record check and investigation not later than 60 days after the
18 date the department receives the application materials. The
19 department shall send a fingerprint card to the Federal Bureau of
20 Investigation for a national criminal history check of the
21 applicant. On completion of the investigation, the director's
22 designee shall return all materials and the result of the
23 investigation to the appropriate division of the department at its
24 Austin headquarters. The director's designee may submit to the
25 appropriate division of the department, at the department's Austin
26 headquarters, along with the application materials a written
27 recommendation for disapproval of the application, accompanied by

an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 2 of this article. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued. On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary in the event that a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than 180 days after the date the department receives the application materials from the applicant.

SECTION 5. Section 6(b), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(b) ~~Not~~ Not ~~[After-January-17-1997,--the--department,--not]~~ later than the 60th day after the date of the receipt by the director's designee of the completed application materials, the department shall:

(1) ~~[(A)]~~ issue the license; ~~[or]~~

(2) ~~[(B)]~~ notify the applicant in writing that the application was denied:

(A) ~~[(A)]~~ on the grounds that the applicant failed to qualify under the criteria listed in Section 2 of this article;

(B) ~~[(B)]~~ based on the affidavit of the

1 director's designee submitted to the department under Section 5(b)
2 of this article; or

3 (C) ~~{+++}~~ based on the affidavit of the
4 qualified handgun instructor submitted to the department under
5 Section 17(c) of this article; or

6 (3) notify the applicant in writing that the
7 department is unable to make a determination regarding the issuance
8 or denial of a license to the applicant within the 60-day period
9 prescribed by this subsection and include in that notification an
10 explanation of the reason for the inability and an estimation of
11 the amount of time the department will need to make the
12 determination.

13 ~~{+2}--Between-the-effective-date-of--this--article--and~~
14 ~~December--31-1996, the department shall perform the duties set out~~
15 ~~in this subsection not later than the 90th day after the date of~~
16 ~~the receipt by the director's designee of the completed application~~
17 ~~materials.]~~

18 SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee),
19 Revised Statutes, are amended and relettered to read as follows:

20 (g) ~~[On a demand by a magistrate or a peace officer that a~~
21 ~~license holder display the license holder's handgun license, the~~
22 ~~license holder shall display both the license and the license~~
23 ~~holder's driver's license or identification certificate issued by~~
24 ~~the department.]~~

25 ~~{h}~~ If a license holder is carrying a handgun on or about
26 the license holder's person when a magistrate or a peace officer
27 demands that the license holder display identification, the license

holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 13 of this article.

(h) [†] A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (g) [or-†] of this section after previously having had the person's license suspended for a violation of that subsection.

An offense under this subsection is a Class B misdemeanor.

SECTION 7. Section 12(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 2 of this article, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment; [or]

(4) is convicted of an offense under Section 46.035, Penal Code; or

(5) is determined by the department to have engaged in

1 conduct constituting a reason to suspend a license listed in
2 Section 13(a) of this article after the person's license has been
3 previously suspended twice for the same reason.

4 SECTION 8. Sections 13(a) and (c), Article 4413(29ee),
5 Revised Statutes, are amended to read as follows:

6 (a) A license may be suspended under this section if the
7 license holder:

8 (1) is charged with the commission of a Class A or
9 Class B misdemeanor or an offense [~~convicted-of-disorderly--conduct~~
10 ~~punishable--as--a--Class--C-misdemeanor~~] under Section 42.01, Penal
11 Code, or of a felony under an information or indictment;

12 (2) fails to display a license as required by Section
13 6 of this article;

14 (3) fails to notify the department of a change of
15 address or name as required by Section 8 of this article;

16 (4) carries a concealed handgun under the authority of
17 this article of a different category than the license holder is
18 licensed to carry; or

19 (5) [~~has---been---charged---by---indictment---with---the~~
20 ~~commission-of--an--offense--that--would--make--the--license--holder~~
21 ~~ineligible-for-a-license-on-conviction,--or~~

22 [~~6~~] fails to return a previously issued license
23 after a license is modified as required by Section 10(d) of this
24 article.

25 (c) A license may be suspended under this section:

26 (1) for 30 days, if the person's license is subject to
27 suspension for a reason listed in Subsection (a)(3), (4), or (5) of

1 this section, except as provided by Subdivision (3) of this
2 subsection;

3 (2) for 90 days, if the person's license is subject to
4 suspension for a reason listed in Subsection (a)(2) of this
5 section, except as provided by Subdivision (3) of this subsection;

6 (3) for not less than one year and not more than three
7 years if the person's license is subject to suspension for a reason
8 listed in Subsection (a) of this section, other than the reason
9 listed in Subsection (a)(1) of this section, and the person's
10 license has been previously suspended for the same reason; or

11 (4) until dismissal of the charges, if the person's
12 license is subject to suspension for the reason listed in
13 Subsection (a)(1) of this section.

14 SECTION 9. Section 17(c), Article 4413(29ee), Revised
15 Statutes, is amended to read as follows:

16 (c) A qualified handgun instructor may submit to the
17 department a written recommendation for disapproval of the
18 application for a license, renewal, or modification of a license,
19 accompanied by an affidavit stating personal knowledge or naming
20 persons with personal knowledge of facts that lead the instructor
21 to believe that an applicant is not qualified for handgun
22 proficiency certification. The department may use a written
23 recommendation submitted under this subsection as the basis for
24 denial of a license only if the department determines that the
25 recommendation is made in good faith and is supported by a
26 preponderance of the evidence. The department shall make a
27 determination under this subsection not later than the 45th day

1 after the date the department receives the written recommendation.
2 The 60-day period in which the department must take action under
3 Section 6(b) of this article is extended one day for each day a
4 determination is pending under this subsection.

5 SECTION ^{17.}10. Sections 18(c) and (f), Article 4413(29ee),
6 Revised Statutes, are amended to read as follows:

7 (c) The department shall provide training to an individual
8 who applies for certification as a qualified handgun instructor.
9 An applicant shall pay a fee of \$100 to the department for the
10 training. An applicant must take and successfully complete the
11 training offered by the department and pay the training fee before
12 the department may certify the applicant as a qualified handgun
13 instructor. The department shall issue [~~waive--the--requirements~~
14 ~~regarding--a--handgun-proficiency-certification-under-Section-17-of~~
15 ~~this-article-for-an-applicant-for~~] a license to carry a concealed
16 handgun under the authority of this article to any person who is
17 certified as a qualified handgun instructor and who pays to the
18 department a fee of \$100 in addition to [~~takes-and-successfully~~
19 ~~completes-training-under-this-subsection--and--pays~~] the training
20 fee. The department by rule may prorate or waive the training fee
21 for an employee of another governmental entity.

22 (f) If the department determines that a reason exists to
23 revoke, suspend, or deny a license to carry a concealed handgun
24 with respect to a person who is a qualified handgun instructor or
25 an applicant for certification as a qualified handgun instructor,
26 the department shall take that action against the person's license
27 to carry a concealed handgun, if the person is an applicant for or

1 the holder of such a license, and the person's certification as a
2 qualified handgun instructor [~~regardless of whether the person has~~
3 ~~a license issued under this article to carry a concealed handgun~~].

4 SECTION 11. Section 31, Article 4413(29ee), Revised
5 Statutes, is amended by amending Subsections (a) and (c) and adding
6 Subsections (d) and (e) to read as follows:

7 (a) A business that has a permit or license issued under
8 Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic Beverage Code, and
9 that derives 51 percent or more of its income from the sale of
10 alcoholic beverages for on-premises consumption as determined by
11 the Texas Alcoholic Beverage Commission under Section 104.06,
12 Alcoholic Beverage Code, shall prominently display at each entrance
13 to the business premises a sign that complies with the requirements
14 of Subsection (c) of this section.

15 (c) The sign required under Subsections (a) and (b) of this
16 section must give notice in both English and Spanish that it is
17 unlawful for a person licensed under this article to carry a
18 handgun on the premises. The sign must appear in contrasting
19 colors with block letters at least one inch in height and must
20 include on its face the number "51" printed in solid red at least
21 five inches in height. The sign shall be displayed in a
22 conspicuous manner clearly visible to the public.

23 (d) A business that has a permit or license issued under the
24 Alcoholic Beverage Code and that is not required to display a sign
25 under this section may be required to display a sign under Section
26 11.041 or Section 61.11, Alcoholic Beverage Code.

27 (e) This section does not apply to a business that has a

1 food and beverage certificate issued under the Alcoholic Beverage
2 Code.

3 SECTION ¹¹⁵~~12~~. Section 35, Article 4413(29ee), Revised
4 Statutes, is amended to read as follows:

5 Sec. 35. NONRESIDENT ~~[RECIPROCAL]~~ LICENSE. (a) The
6 department by rule shall establish a procedure for a person who is
7 a legal resident of a state that does not provide for the issuance
8 of a license to carry a concealed handgun and who meets the
9 eligibility requirements of this article other than the residency
10 requirement established by Section 2(a)(1) of this article to
11 obtain a license under this article. The procedure shall include
12 payment of a fee in an amount sufficient to recover the average
13 cost to the department of obtaining a criminal history record check
14 and investigation on a nonresident applicant.

15 (b) The department shall negotiate an agreement with any
16 other state that provides for the issuance of a license to carry a
17 concealed handgun under which a license issued by the other state
18 is recognized in this state ~~[On-application-by-a-person-who--has--a~~
19 ~~valid-license-to-carry-a-concealed-handgun-issued-by-another-state,~~
20 ~~the-department-may-issue-to-the-person-a-license-under-this-article~~
21 ~~without--requiring-that-the-person-meet-eligibility-requirements-or~~
22 ~~pay-fees-otherwise-imposed-under-this-article,--but--only]~~ if the
23 department determines that:

24 (1) the eligibility requirements imposed by the other
25 state include background check requirements that meet or exceed
26 background check ~~[are--at--least-as-rigorous-as-the]~~ requirements
27 imposed by federal law as a condition of receiving a handgun ~~[this~~

1 ~~article~~]; and

2 (2) the other state recognizes [~~provides-reciprocal~~
3 ~~licensing-privileges-to-a-person-who-holds~~] a license issued in
4 ~~[under]~~ this [~~article--and--applies--for--a-license-in-the-other~~]
5 state.

6 SECTION 13. Chapter 11, Alcoholic Beverage Code, is amended
7 by adding Section 11.041 to read as follows:

8 Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a
9 permit who is not otherwise required to display a sign under
10 Section 31, Article 4413(29ee), Revised Statutes, shall display in
11 a prominent place on the permit holder's premises a sign giving
12 notice that it is unlawful for a person to carry a weapon on the
13 premises unless the weapon is a concealed handgun of the same
14 category the person is licensed to carry under Article 4413(29ee),
15 Revised Statutes.

16 (b) The sign must be at least 6 inches high and 14 inches
17 wide, must appear in contrasting colors, and shall be displayed in
18 a conspicuous manner clearly visible to the public. The commission
19 or administrator may require the permit holder to also display the
20 sign in a language other than English if it can be observed or
21 determined that a substantial portion of the expected customers
22 speak the other language as their familiar language.

23 SECTION 14. Section 11.61(e), Alcoholic Beverage Code, is
24 amended to read as follows:

25 (e) Except as provided by Subsection (f), the commission or
26 administrator shall cancel an original or renewal permit if it is
27 found, after notice and hearing, that the permittee knowingly

1 allowed a person to possess a firearm in a building on the licensed
2 premises. This subsection does not apply to a person:

3 (1) who holds a security officer commission issued by
4 the Texas Board of Private Investigators and Private Security
5 Agencies, if:

6 (A) the person is engaged in the performance of
7 the person's duties as a security officer;

8 (B) the person is wearing a distinctive uniform;
9 and

10 (C) the weapon is in plain view;

11 (2) who is a peace officer; ~~[or]~~

12 (3) who is a permittee or an employee of a permittee
13 if the person is supervising the operation of the premises; or

14 (4) who possesses a concealed handgun of the same
15 category the person is licensed to carry under Article 4413(29ee),
16 Revised Statutes, unless the person is on the premises of a
17 business described by Section 46.035(b)(1), Penal Code.

18 SECTION 15. Section 61.11, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a
21 license who is not otherwise required to display a sign under
22 Section 31, Article 4413(29ee), Revised Statutes, shall display in
23 a prominent place on the license holder's [his] premises a sign
24 giving notice that it is unlawful for a person to carry a weapon on
25 the premises unless the weapon is a concealed handgun of the same
26 category the person is licensed to carry under Article 4413(29ee),
27 Revised Statutes.

(b) The sign must be [7] at least 6 inches high and 14 inches wide, must appear in contrasting colors, and shall be displayed in a conspicuous manner clearly visible to the public [~~stating:---FELONY.---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN YEARS--IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD,--SERVED,--OR-CONSUMED~~].

The commission or administrator may require the holder of the license to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

~~[(b)--A--licensee--who--violates--this--section---commits---a misdemeanor-punishable-by-a-fine-of-not-more-than-\$25.]~~

SECTION 16. Section 61.71(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Except as provided by Subsection (g), the commission or administrator shall cancel an original or renewal dealer's on-premises or off-premises license if it is found, after notice and hearing, that the licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform;

1 and

2 (C) the weapon is in plain view;

3 (2) who is a peace officer; [er]

4 (3) who is a licensee or an employee of a licensee if
5 the person is supervising the operation of the premises; or

6 (4) who possesses a concealed handgun of the same
7 category the person is licensed to carry under Article 4413(29ee),
8 Revised Statutes, unless the person is on the premises of a
9 business described by Section 46.035(b)(1), Penal Code.

10 SECTION 17. Chapter 104, Alcoholic Beverage Code, is amended
11 by adding Section 104.06 to read as follows:

12 Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the
13 issuance and renewal of a license or permit that allows on-premises
14 consumption of any alcoholic beverage the commission shall
15 determine whether the holder receives, or for the issuance of a
16 license or permit is to receive, 51 percent or more of the gross
17 receipts of the premises for which the license or permit is issued
18 from the holder's sale or service of alcoholic beverages for
19 on-premises consumption.

20 (b) The commission shall:

21 (1) adopt rules for making a determination under
22 Subsection (a); and

23 (2) require a holder of a license or permit to provide
24 any information or document that the commission needs to make a
25 determination.

26 (c) If the commission makes a determination under Subsection
27 (a) that a holder of a license or permit receives 51 percent or

1 more of the gross receipts of the premises from the sale or service
2 of alcoholic beverages, the holder shall comply with the
3 requirements of Section 31, Article 4413(29ee), Revised Statutes,
4 and shall continue to comply with those requirements until the
5 commission determines that the holder receives less than 51 percent
6 of the gross receipts of the premises from the sale or service of
7 alcoholic beverages for on-premises consumption.

8 SECTION 18. Section 12.092(b), Health and Safety Code, as
9 added by Chapter 165, Acts of the 74th Legislature, Regular
10 Session, 1995, is amended to read as follows:

11 (b) The medical advisory board shall assist the Department
12 of Public Safety of the State of Texas in determining whether:

13 (1) an applicant for a driver's license or a license
14 holder is capable of safely operating a motor vehicle; or

15 (2) an applicant for or holder of a license to carry a
16 concealed handgun under the authority of Article 4413(29ee),
17 Revised Statutes, is capable of exercising sound judgment with
18 respect to the proper use and storage of a handgun.

19 SECTION 19. Sections 12.095(a), (c), and (d), Health and
20 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
21 Regular Session, 1995, are amended to read as follows:

22 (a) If the Department of Public Safety of the State of Texas
23 requests an opinion or recommendation from the medical advisory
24 board as to the ability of an applicant or license holder to
25 operate a motor vehicle safely or to exercise sound judgment with
26 respect to the proper use and storage of a handgun, the
27 commissioner or a person designated by the commissioner shall

1 convene a panel to consider the case or question submitted by that
2 department.

3 (c) Each panel member shall prepare an individual
4 independent written report for the Department of Public Safety of
5 the State of Texas that states the member's opinion as to the
6 ability of the applicant or license holder to operate a motor
7 vehicle safely or to exercise sound judgment with respect to the
8 proper use and storage of a handgun, as appropriate. In the report
9 the panel member may also make recommendations relating to that
10 department's subsequent action.

11 (d) In its deliberations, a panel may examine any medical
12 record or report that contains material that may be relevant to the
13 ability of the applicant or license holder [~~to operate a motor~~
14 ~~vehicle safely~~].

15 SECTION 20. Chapter 30, Penal Code, is amended by adding
16 Section 30.06 to read as follows:

17 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED
18 HANDGUN. (a) A license holder commits an offense if the license
19 holder:

20 (1) carries a handgun under the authority of Article
21 4413(29ee), Revised Statutes, on property of another without
22 effective consent; and

23 (2) received notice that:
24 (A) entry on the property by a license holder
25 with a concealed handgun was forbidden; or
26 (B) remaining on the property with a concealed
27 handgun was forbidden and failed to depart.

1 (b) For purposes of this section, a person receives notice
2 if the owner of the property or someone with apparent authority to
3 act for the owner provides notice to the person by oral and written
4 communication.

5 (c) In this section:

6 (1) "Entry" has the meaning assigned by Section
7 30.05(b).

8 (2) "License holder" has the meaning assigned by
9 Section 46.035(f).

10 (d) An offense under this section is a Class A misdemeanor.

11 SECTION 21. Section 46.02, Penal Code, is amended to read as
12 follows:

13 Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person
14 commits an offense if he intentionally, knowingly, or recklessly
15 carries on or about his person a handgun, illegal knife, or club.

16 (b) ~~[It is a defense to prosecution under this section--that~~
17 ~~the actor was, at the time of the commission of the offense:~~

18 ~~[(1)--in the actual discharge of his official duties as~~
19 ~~a member of the armed forces or state military forces as defined by~~
20 ~~Section 431.001, Government Code, or as a guard employed by a penal~~
21 ~~institution;~~

22 ~~[(2)--on his own premises or premises under his control~~
23 ~~unless--he is an employee or agent of the owner of the premises and~~
24 ~~his primary responsibility is to act in the capacity of a--security~~
25 ~~guard to protect persons or property, in which event he must comply~~
26 ~~with Subdivision (5);~~

27 ~~[(3)--traveling;~~

1 [(4) --engaging--in--lawful--hunting,--fishing,--or--other
2 sporting-activity-on-the-immediate-premises-where-the--activity--is
3 conducted,--or--was--directly-en-route-between-the-premises-and-the
4 actor's-residence,--if-the-weapon-is-a-type--commonly--used--in--the
5 activity;

6 [(5) --a--person-who-holds-a-security-officer-commission
7 issued-by-the-Texas-Board--of--Private--Investigators--and--Private
8 Security-Agencies,--if:

9 [(A) --he--is--engaged--in--the-performance-of-his
10 duties-as-a-security-officer-or-traveling-to-and-from-his-place--of
11 assignment;

12 [(B) --he-is-wearing-a-distinctive-uniform,--and

13 [(C) --the-weapon-is-in-plain-view,--or

14 [(7) --carrying--a-concealed-handgun-and-a-valid-license
15 issued-under-Article--4413(29ee),--Revised--Statutes,--to--carry--a
16 concealed-handgun-of-the-same-category-as-the-handgun-the-person-is
17 carrying.

18 [(7) --a--person-who-holds-a-security-officer-commission
19 and-a-personal-protection-authorization-issued-by-the--Texas--Board
20 of--Private--Investigators-and-Private-Security-Agencies-and-who-is
21 providing-personal-protection-under-the-Private--Investigators--and
22 Private--Security--Agencies-Act-(Article-4413(29bb),--Vernon's-Texas
23 Civil-Statutes);

24 [(7) --a-holder--of--an--alcoholic--beverage--permit--or
25 license--or-an-employee-of-a-holder-of-an-alcoholic-beverage-permit
26 or-license-if--the--actor--is--supervising--the--operation--of--the
27 permitted-or-licensed-premises.

[~~(c)~~]~~--It--is--a-defense-to-prosecution-under-this-section-for~~
~~the-offense-of-carrying-a-club-that-the-actor-was,--at-the--time--of~~
~~the--commission-of-the-offense,--a-noncommissioned-security-guard-at~~
~~an-institution-of-higher-education--who--carried--a--nightstick--or~~
~~similar--club,--and--who--had-undergone-15-hours-of-training-in-the~~
~~proper-use-of-the-club,--including-at-least-seven-hours-of--training~~
~~in--the-use-of-the-club-for-nonviolent-restraint.--For-the-purposes~~
~~of-this-section,--"nonviolent-restraint"--means-the-use-of-reasonable~~
~~force,--not-intended-and-not-likely-to-inflict-bodily-injury.~~

[~~(d)~~]~~--It-is-a-defense-to-prosecution-under-this--section--for~~
~~the-offense-of-carrying-a-firearm-or-carrying-a-club-that-the-actor~~
~~was,--at--the--time--of--the--commission--of--the-offense,--a-public~~
~~security-officer-employed-by-the--adjutant--general--under--Section~~
~~431-029,--Government--Code,--and--was-performing-official-duties-or~~
~~traveling-to-or-from-a-place-of-duty.~~

[~~(e)~~] Except as provided by Subsection (c) [~~(f)~~], an offense under this section is a Class A misdemeanor.

(c) [~~(f)~~] An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages.

SECTION 22. Sections 46.03(b) and (c), Penal Code, are amended to read as follows:

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a [~~peace-officer-or--a~~] member of the armed forces or national guard or a guard employed by a

1 penal institution, or an officer of the court.

2 (c) In this section:

3 (1) "Premises" has the meaning assigned by Section
4 46.035.

5 (2) "Secured [~~"secured~~] area" means an area of an
6 airport terminal building to which access is controlled by the
7 inspection of persons and property under federal law.

8 SECTION 23. Section 46.035(b), Penal Code, is amended to
9 read as follows:

10 (b) A license holder commits an offense if the license
11 holder intentionally, knowingly, or recklessly carries a handgun
12 under the authority of Article 4413(29ee), Revised Statutes,
13 regardless of whether the handgun is concealed, on or about the
14 license holder's person:

15 (1) on the premises of a business that has a permit or
16 license issued under Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic
17 Beverage Code, if the business derives 51 percent or more of its
18 income from the sale or service of alcoholic beverages for
19 on-premises consumption, as determined by the Texas Alcoholic
20 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

21 (2) on the premises where a high school, collegiate,
22 or professional sporting event or interscholastic event is taking
23 place, unless the license holder is a participant in the event and
24 a handgun is used in the event;

25 (3) on the premises of a correctional facility;

26 (4) on the premises of a hospital licensed under
27 Chapter 241, Health and Safety Code, or on the premises of a

nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

SECTION 24. Section 46.15, Penal Code, is amended to read as follows:

Sec. 46.15. NONAPPLICABILITY [TO-----PEACE-----OFFICERS].

(a) Sections 46.02 and 46.03 do not apply to peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) is on the person's own premises or premises under the person's control unless the person is an employee or agent of the owner of the premises and the person's primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event the person must comply with Subdivision (5);

(3) is traveling;

(4) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is

1 conducted, or is directly en route between the premises and the
2 actor's residence, if the weapon is a type commonly used in the
3 activity;

4 (5) holds a security officer commission issued by the
5 Texas Board of Private Investigators and Private Security Agencies,
6 if:

7 (A) the person is engaged in the performance of
8 the person's duties as a security officer or traveling to and from
9 the person's place of assignment;

10 (B) the person is wearing a distinctive uniform;
11 and

12 (C) the weapon is in plain view;

13 (6) is carrying a concealed handgun and a valid
14 license issued under Article 4413(29ee), Revised Statutes, to carry
15 a concealed handgun of the same category as the handgun the person
16 is carrying;

17 (7) holds a security officer commission and a personal
18 protection authorization issued by the Texas Board of Private
19 Investigators and Private Security Agencies and who is providing
20 personal protection under the Private Investigators and Private
21 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
22 Statutes); or

23 (8) holds an alcoholic beverage permit or license or
24 is an employee of a holder of an alcoholic beverage permit or
25 license if the person is supervising the operation of the permitted
26 or licensed premises.

27 (c) The provision of Section 46.02 prohibiting the carrying

1 of a club does not apply to a noncommissioned security guard at an
2 institution of higher education who carries a nightstick or similar
3 club, and who has undergone 15 hours of training in the proper use
4 of the club, including at least seven hours of training in the use
5 of the club for nonviolent restraint. For the purposes of this
6 subsection, "nonviolent restraint" means the use of reasonable
7 force, not intended and not likely to inflict bodily injury.

8 (d) The provisions of Section 46.02 prohibiting the carrying
9 of a firearm or carrying of a club do not apply to a public
10 security officer employed by the adjutant general under Section
11 431.029, Government Code, in performance of official duties or
12 while traveling to or from a place of duty.

13 SECTION 25. Section 1(10), Article 4413(29ee), Revised
14 Statutes, is repealed.

15 SECTION 26. (a) The changes in law made by this Act in
16 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
17 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
18 amending Sections 12.092 and 12.095, Health and Safety Code, as
19 added by Chapter 165, Acts of the 74th Legislature, Regular
20 Session, 1995, apply only to a person's initial application for a
21 license to carry a concealed handgun under Article 4413(29ee),
22 Revised Statutes, if the application is made on or after the
23 effective date of this Act. A person who makes an initial
24 application for a license to carry a concealed handgun under
25 Article 4413(29ee), Revised Statutes, before the effective date of
26 this Act is covered by the law that existed when the application
27 was made, and the former law is continued in effect for that

1 purpose.

2 (b) The changes in law made by this Act in repealing Section
3 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
4 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
5 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
6 of the 74th Legislature, Regular Session, 1995, regarding the
7 revocation of a license to carry a handgun, apply to any revocation
8 proceeding initiated on or after the effective date of this Act.

9 SECTION ³⁵~~27~~. Not later than September 1, 1998, a person who
10 before the effective date of this Act was licensed to carry a
11 concealed handgun under Article 4413(29ee), Revised Statutes, and
12 whose license was revoked on the sole basis that the person was
13 charged with the commission of a Class A or Class B misdemeanor or
14 an offense under Section 42.01, Penal Code, or a felony under an
15 information or indictment may apply to the department to change the
16 status of the person's license in accordance with Sections 12 and
17 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
18 The Department of Public Safety shall promptly place the person's
19 license on suspension, if the charges against the person are still
20 pending, or reinstate the person's license, if the charges against
21 the person have been dismissed.

22 SECTION ³⁵~~28~~. Not later than December 1, 1997, the Department
23 of Public Safety shall establish the procedure and shall commence
24 any negotiation required by Section 35, Article 4413(29ee), Revised
25 Statutes, as amended by this Act.

26 SECTION ³⁵~~29~~. (a) The Texas Alcoholic Beverage Commission
27 shall:

1 (1) not later than October 1, 1997, adopt the rules
2 required by Section 104.06, Alcoholic Beverage Code, as added by
3 this Act; and

4 (2) at the time of the issuance or the first renewal
5 of a license or permit under the Alcoholic Beverage Code, that
6 allows on-premises consumption of any alcoholic beverage and that
7 occurs on or after October 1, 1997, make the initial determination
8 required by Section 104.06, Alcoholic Beverage Code, as added by
9 this Act.

10 (b) The change in law made by this Act to Section 31,
11 Article 4413(29ee), Revised Statutes, applies only to the display
12 of a sign on or after the date the Texas Alcoholic Beverage
13 Commission makes an initial determination under Section 104.06,
14 Alcoholic Beverage Code, as added by this Act, in accordance with
15 Subsection (a)(2) of this section, with respect to the holder of a
16 license or permit who conducts business on the premises for which
17 the determination is made.

18 (c) The change in law made by this Act to Section 46.035,
19 Penal Code, relating to the Texas Alcoholic Beverage Commission's
20 determination of the percentage of income derived from the sale or
21 service of alcoholic beverages for on-premises consumption applies
22 only to an offense committed on or after October 1, 1998. For
23 purposes of this section, an offense is committed before October 1,
24 1998, if any element of the offense occurs before that date.

25 SECTION 30. The changes in law made by this Act to Sections
26 46.02, 46.03, and 46.15, Penal Code, apply only to an offense
27 committed on or after the effective date of this Act. An offense

1 committed before the effective date of this Act is covered by the
2 law in effect when the offense was committed, and the former law is
3 continued in effect for that purpose. For purposes of this
4 section, an offense was committed before the effective date of this
5 Act if any element of the offense occurred before that date.

6 SECTION 31. This Act takes effect September 1, 1997.

7 SECTION 32. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

**FISCAL NOTE
75th Regular Session**

April 10, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909,
Committee Report 1st House,
Substituted
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-Committee Report 1st House, Substituted

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

The bill would require that the Department of Public Safety (DPS) establish procedures for reciprocal agreements with other states to honor concealed handgun permits.

The bill would also require the Texas Alcoholic Beverage Commission (TABC) to determine if certain permit and license holders derive a majority of their gross receipts from the sale of alcoholic beverages. Each business so designated would have to display a sign regarding the legality of carrying concealed handguns on its premises.

Methodology

DPS would be required to coordinate with other states regarding concealed handgun permits. In addition, DPS would need to process out-of-state applications and make programming changes to the concealed handgun database to accommodate these applications. Although there would be added responsibility, it is assumed that the new responsibility could be fulfilled with current resources.

TABC would have to make a determination on an estimated 15,000 permits with a 10 percent audit rate. The cost of this responsibility would be offset by an equal amount of fee revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
1998	(\$324,100)	\$324,100	4.0
1999	(276,100)	276,100	4.0
2000	(276,100)	276,100	4.0
2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 7, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Introduced

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
304 Comptroller of Public Accounts

LBB Staff: JK, CB, RS



Committees:

- Public Safety
- State Affairs

State of Texas
House of Representatives
BILL G. CARTER
DISTRICT 91

Chairman
Tarrant County Delegation

April 14, 1997

Statement of Representative Bill G. Carter regarding the vote on House Bill 2909 on April 7, 1997 in the House Committee on Public Safety.

I was presenting a bill in another committee when the vote was taken on HB 2909. Had I been present I would have voted aye.

Signed


Bill G. Carter

Austin Office:
P.O. Box 2910
Austin, Texas 78768-2910
512-463-0482

5

District Office:
3525 Denton Hwy., Ste. A
Fort Worth Texas 76117
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1-1 By: Carter, et al. (Senate Sponsor - Patterson) H.B. No. 2909
1-2 (In the Senate - Received from the House May 15, 1997;
1-3 May 16, 1997, read first time and referred to Committee on Criminal
1-4 Justice; May 18, 1997, reported favorably by the following vote:
1-5 Yeas 5, Nays 2; May 18, 1997, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to persons eligible for a license to carry a concealed
1-9 handgun, to the rights and duties of license holders, and to
1-10 certain offenses involving weapons.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2(a), Article 4413(29ee), Revised
1-13 Statutes, is amended to read as follows:

1-14 (a) A person is eligible for a license to carry a concealed
1-15 handgun if the person:

1-16 (1) is a legal resident of this state for the
1-17 six-month period preceding the date of application under this
1-18 article or is otherwise eligible for a license under Section 35(a)
1-19 of this article;

1-20 (2) is at least 21 years of age;

1-21 (3) has not been convicted of a felony;

1-22 (4) is not charged with the commission of a Class A or
1-23 Class B misdemeanor or an offense under Section 42.01, Penal Code,
1-24 or of a felony under an information or indictment;

1-25 (5) is not a fugitive from justice for a felony or a
1-26 Class A or Class B misdemeanor;

1-27 (6) is not a chemically dependent person;

1-28 (7) is not incapable of exercising sound judgment with
1-29 respect to the proper use and storage of a handgun [a-person-of
1-30 unsound-mind];

1-31 (8) has not, in the five years preceding the date of
1-32 application, been convicted of a Class A or Class B misdemeanor or
1-33 an offense under Section 42.01, Penal Code;

1-34 (9) is fully qualified under applicable federal and
1-35 state law to purchase a handgun;

1-36 (10) has not been finally determined to be delinquent
1-37 in making a child support payment administered or collected by the
1-38 attorney general;

1-39 (11) has not been finally determined to be delinquent
1-40 in the payment of a tax or other money collected by the
1-41 comptroller, state treasurer, tax collector of a political
1-42 subdivision of the state, Texas Alcoholic Beverage Commission, or
1-43 any other agency or subdivision of the state;

1-44 (12) has not been finally determined to be in default
1-45 on a loan made under Chapter 57, Education Code;

1-46 (13) is not currently restricted under a court
1-47 protective order or subject to a restraining order affecting the
1-48 spousal relationship, not including a restraining order solely
1-49 affecting property interests;

1-50 (14) has not, in the 10 years preceding the date of
1-51 application, been adjudicated as having engaged in delinquent
1-52 conduct violating a penal law of the grade of felony; and

1-53 (15) has not made any material misrepresentation, or
1-54 failed to disclose any material fact, in an application submitted
1-55 pursuant to Section 3 of this article or in a request for
1-56 application submitted pursuant to Section 4 of this article.

1-57 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,
1-58 is amended by adding Subsection (d) to read as follows:

1-59 (d)(1) For purposes of Subsection (a)(7) of this section, a
1-60 person is incapable of exercising sound judgment with respect to
1-61 the proper use and storage of a handgun if:

1-62 (A) the person has been diagnosed by a licensed
1-63 physician as suffering from a psychiatric disorder or condition
1-64 that causes or is likely to cause substantial impairment in

judgment, mood, perception, impulse control, or intellectual ability;

(B) the person suffers from a psychiatric disorder or condition described by Paragraph (A) of this subdivision that:

(i) is in remission but is reasonably likely to redevelop at a future time; or

(ii) requires continuous medical treatment to avoid redevelopment;

(C) the person has been diagnosed by a licensed physician or declared by a court to be incompetent to manage the person's own affairs; or

(D) the person has entered in any criminal proceeding a plea of not guilty by reason of insanity.

(2) The following are evidence that a person has a psychiatric disorder or condition described by Subdivision (1)(A) of this subsection:

(A) involuntary psychiatric hospitalization in the preceding five-year period;

(B) psychiatric hospitalization in the preceding two-year period;

(C) inpatient or residential substance abuse treatment in the preceding five-year period;

(D) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(E) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(i) schizophrenia or delusional disorder;

(ii) bipolar disorder;

(iii) chronic dementia, whether caused by illness, brain defect, or brain injury;

(iv) dissociative identity disorder;

(v) intermittent explosive disorder; or

(vi) antisocial personality disorder.

(3) Notwithstanding Subdivision (1), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subdivision (1) or listed in Subdivision (2) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

SECTION 3. Section 3(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 5 of this article:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b) of this section;

(2) two recent color passport photographs of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person ~~employed by a law enforcement agency who is~~ appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this article;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 17 of this article;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this article that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section 2 of this article; and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section 2(a) of this article.

SECTION 4. Section 5(b), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than 60 days after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters. The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 2 of this article. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued. On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary in the event that a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than 180 days after the date the department receives the application materials from the applicant.

SECTION 5. Section 6(b), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(b){++} Not [After-January-17-1997--the--department,--not] later than the 60th day after the date of the receipt by the director's designee of the completed application materials, the department shall:

(1) {+A+} issue the license; [or]

(2) {+B+} notify the applicant in writing that the application was denied:

(A) {++} on the grounds that the applicant failed to qualify under the criteria listed in Section 2 of this article;

(B) {+++} based on the affidavit of the director's designee submitted to the department under Section 5(b) of this article; or

(C) {++++} based on the affidavit of the qualified handgun instructor submitted to the department under Section 17(c) of this article; or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the amount of time the department will need to make the

determination.

~~[(2)--Between the effective date of this article and December 31, 1996, the department shall perform the duties set out in this subsection not later than the 90th day after the date of the receipt by the director's designee of the completed application materials.]~~

SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee), Revised Statutes, are amended and relettered to read as follows:

(g) ~~[On a demand by a magistrate or a peace officer that a license holder display the license holder's handgun license, the license holder shall display both the license and the license holder's driver's license or identification certificate issued by the department.]~~

~~[(h)]~~ If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 13 of this article.

~~[(i)]~~ A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (g) ~~[or (h)]~~ of this section after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.

SECTION 7. Section 12(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 2 of this article, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment; [or]

(4) is convicted of an offense under Section 46.035, Penal Code; or

(5) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 13(a) of this article after the person's license has been previously suspended twice for the same reason.

SECTION 8. Sections 13(a) and (c), Article 4413(29ee), Revised Statutes, are amended to read as follows:

(a) A license may be suspended under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or an offense ~~[convicted of disorderly conduct punishable as a Class C misdemeanor]~~ under Section 42.01, Penal Code, or of a felony under an information or indictment;

(2) fails to display a license as required by Section 6 of this article;

(3) fails to notify the department of a change of address or name as required by Section 8 of this article;

(4) carries a concealed handgun under the authority of this article of a different category than the license holder is licensed to carry; or

(5) ~~[has been charged by indictment with the commission of an offense that would make the license holder ineligible for a license on conviction; or]~~

~~[(6)]~~ fails to return a previously issued license after a license is modified as required by Section 10(d) of this article.

(c) A license may be suspended under this section:

(1) for 30 days, if the person's license is subject to

suspension for a reason listed in Subsection (a)(3), (4), or (5) of this section, except as provided by Subdivision (3) of this subsection;

(2) for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2) of this section, except as provided by Subdivision (3) of this subsection;

(3) for not less than one year and not more than three years if the person's license is subject to suspension for a reason listed in Subsection (a) of this section, other than the reason listed in Subsection (a)(1) of this section, and the person's license has been previously suspended for the same reason; or

(4) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1) of this section.

SECTION 9. Section 17(c), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(c) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license, renewal, or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant is not qualified for handgun proficiency certification. The department may use a written recommendation submitted under this subsection as the basis for denial of a license only if the department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. The department shall make a determination under this subsection not later than the 45th day after the date the department receives the written recommendation. The 60-day period in which the department must take action under Section 6(b) of this article is extended one day for each day a determination is pending under this subsection.

SECTION 10. Sections 18(c) and (f), Article 4413(29ee), Revised Statutes, are amended to read as follows:

(c) The department shall provide training to an individual who applies for certification as a qualified handgun instructor. An applicant shall pay a fee of \$100 to the department for the training. An applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor. The department shall ~~issue [waive--the--requirements regarding--a--handgun-proficiency-certification-under-Section-17-of this-article-for-an-applicant-for]~~ a license to carry a concealed handgun under the authority of this article to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$100 in addition to ~~[takes-and-successfully completes-training-under-this-subsection--and--pays]~~ the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a concealed handgun with respect to a person who is a qualified handgun instructor or an applicant for certification as a qualified handgun instructor, the department shall take that action against the person's license to carry a concealed handgun, if the person is an applicant for or the holder of such a license, and the person's certification as a qualified handgun instructor ~~[regardless-of-whether-the-person-has a-license-issued-under-this-article-to-carry-a-concealed-handgun]~~.

SECTION 11. Section 31, Article 4413(29ee), Revised Statutes, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) A business that has a permit or license issued under Chapter 25, 28, 32, ~~[or]~~ 69, or 74, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code, shall prominently display at each entrance to the business premises a sign that complies with the requirements of Subsection (c) of this section.

(c) The sign required under Subsections (a) and (b) of this section must give notice in both English and Spanish that it is unlawful for a person licensed under this article to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

(d) A business that has a permit or license issued under the Alcoholic Beverage Code and that is not required to display a sign under this section may be required to display a sign under Section 11.041 or Section 61.11, Alcoholic Beverage Code.

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.

SECTION 12. Section 35, Article 4413(29ee), Revised Statutes, is amended to read as follows:

Sec. 35. NONRESIDENT [RECIPROCAL] LICENSE. (a) The department by rule shall establish a procedure for a person who is a legal resident of a state that does not provide for the issuance of a license to carry a concealed handgun and who meets the eligibility requirements of this article other than the residency requirement established by Section 2(a)(1) of this article to obtain a license under this article. The procedure shall include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant.

(b) The department shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state [~~On-application-by-a-person-who--has--a valid-license-to-carry-a-concealed-handgun-issued-by-another-state, the-department-may-issue-to-the-person-a-license-under-this-article without--requiring-that-the-person-meet-eligibility-requirements-or pay-fees-otherwise-imposed-under-this-article,--but--only~~] if the department determines that:

(1) the eligibility requirements imposed by the other state include background check requirements that meet or exceed background check [~~are--at--least-as-rigorous-as-the~~] requirements imposed by federal law as a condition of receiving a handgun [~~this article~~]; and

(2) the other state recognizes [~~provides-reciprocal licensing-privileges-to-a-person-who-holds~~] a license issued in [~~under~~] this [~~article--and--applies--for--a-license-in-the-other~~] state.

SECTION 13. Chapter 11, Alcoholic Beverage Code, is amended by adding Section 11.041 to read as follows:

Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a permit who is not otherwise required to display a sign under Section 31, Article 4413(29ee), Revised Statutes, shall display in a prominent place on the permit holder's premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), Revised Statutes.

(b) The sign must be at least 6 inches high and 14 inches wide, must appear in contrasting colors, and shall be displayed in a conspicuous manner clearly visible to the public. The commission or administrator may require the permit holder to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

SECTION 14. Section 11.61(e), Alcoholic Beverage Code, is amended to read as follows:

(e) Except as provided by Subsection (f), the commission or administrator shall cancel an original or renewal permit if it is found, after notice and hearing, that the permittee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(2) who is a peace officer; [or]

(3) who is a permittee or an employee of a permittee if the person is supervising the operation of the premises; or

(4) who possesses a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), Revised Statutes, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 15. Section 61.11, Alcoholic Beverage Code, is amended to read as follows:

Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a license who is not otherwise required to display a sign under Section 31, Article 4413(29ee), Revised Statutes, shall display in a prominent place on the license holder's [his] premises a sign giving notice that it is unlawful for a person to carry a weapon on the premises unless the weapon is a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), Revised Statutes.

(b) The sign must be [7] at least 6 inches high and 14 inches wide, must appear in contrasting colors, and shall be displayed in a conspicuous manner clearly visible to the public [stating:---FELONY---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN YEARS--IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD,--SERVED,--OR-CONSUMED]. The commission or administrator may require the holder of the license to also display the sign in a language other than English if it can be observed or determined that a substantial portion of the expected customers speak the other language as their familiar language.

[{b)--A--licensee--who--violates--this--section--commits--a misdemeanor-punishable-by-a-fine-of-not-more-than-\$25-.]

SECTION 16. Section 61.71(f), Alcoholic Beverage Code, is amended to read as follows:

(f) Except as provided by Subsection (g), the commission or administrator shall cancel an original or renewal dealer's on-premises or off-premises license if it is found, after notice and hearing, that the licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform; and

(C) the weapon is in plain view;

(2) who is a peace officer; [or]

(3) who is a licensee or an employee of a licensee if the person is supervising the operation of the premises; or

(4) who possesses a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), Revised Statutes, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 17. Chapter 104, Alcoholic Beverage Code, is amended by adding Section 104.06 to read as follows:

Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the issuance and renewal of a license or permit that allows on-premises consumption of any alcoholic beverage the commission shall determine whether the holder receives, or for the issuance of a license or permit is to receive, 51 percent or more of the gross receipts of the premises for which the license or permit is issued

from the holder's sale or service of alcoholic beverages for on-premises consumption.

(b) The commission shall:

(1) adopt rules for making a determination under Subsection (a); and

(2) require a holder of a license or permit to provide any information or document that the commission needs to make a determination.

(c) If the commission makes a determination under Subsection (a) that a holder of a license or permit receives 51 percent or more of the gross receipts of the premises from the sale or service of alcoholic beverages, the holder shall comply with the requirements of Section 31, Article 4413(29ee), Revised Statutes, and shall continue to comply with those requirements until the commission determines that the holder receives less than 51 percent of the gross receipts of the premises from the sale or service of alcoholic beverages for on-premises consumption.

SECTION 18. Section 12.092(b), Health and Safety Code, as added by Chapter 165, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(b) The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether:

(1) an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle; or

(2) an applicant for or holder of a license to carry a concealed handgun under the authority of Article 4413(29ee), Revised Statutes, is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

SECTION 19. Sections 12.095(a), (c), and (d), Health and Safety Code, as added by Chapter 165, Acts of the 74th Legislature, Regular Session, 1995, are amended to read as follows:

(a) If the Department of Public Safety of the State of Texas requests an opinion or recommendation from the medical advisory board as to the ability of an applicant or license holder to operate a motor vehicle safely or to exercise sound judgment with respect to the proper use and storage of a handgun, the commissioner or a person designated by the commissioner shall convene a panel to consider the case or question submitted by that department.

(c) Each panel member shall prepare an individual independent written report for the Department of Public Safety of the State of Texas that states the member's opinion as to the ability of the applicant or license holder to operate a motor vehicle safely or to exercise sound judgment with respect to the proper use and storage of a handgun, as appropriate. In the report the panel member may also make recommendations relating to that department's subsequent action.

(d) In its deliberations, a panel may examine any medical record or report that contains material that may be relevant to the ability of the applicant or license holder [~~to operate a motor vehicle safely~~].

SECTION 20. Chapter 30, Penal Code, is amended by adding Section 30.06 to read as follows:

Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN. (a) A license holder commits an offense if the license holder:

(1) carries a handgun under the authority of Article 4413(29ee), Revised Statutes, on property of another without effective consent; and

(2) received notice that:
(A) entry on the property by a license holder with a concealed handgun was forbidden; or
(B) remaining on the property with a concealed handgun was forbidden and failed to depart.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral and written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(d) An offense under this section is a Class A misdemeanor.

SECTION 21. Section 46.02, Penal Code, is amended to read as follows:

Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person commits an offense if he intentionally, knowingly, or recklessly carries on or about his person a handgun, illegal knife, or club.

(b) [It is a defense to prosecution under this section that the actor was, at the time of the commission of the offense:

[(1) -- in the actual discharge of his official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

[(2) -- on his own premises or premises under his control unless he is an employee or agent of the owner of the premises and his primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event he must comply with Subdivision (5);

[(3) -- traveling;

[(4) -- engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or was directly en route between the premises and the actor's residence, if the weapon is a type commonly used in the activity;

[(5) -- a person who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

[(A) -- he is engaged in the performance of his duties as a security officer or traveling to and from his place of assignment;

[(B) -- he is wearing a distinctive uniform; and

[(C) -- the weapon is in plain view; or

[(7) -- carrying a concealed handgun and a valid license issued under Article 4413(29ee), Revised Statutes, to carry a concealed handgun of the same category as the handgun the person is carrying;

[(7) -- a person who holds a security officer commission and a personal protection authorization issued by the Texas Board of Private Investigators and Private Security Agencies and who is providing personal protection under the Private Investigators and Private Security Agencies Act (Article 4413(29bb)), Vernon's Texas Civil Statutes;

[(7) -- a holder of an alcoholic beverage permit or license or an employee of a holder of an alcoholic beverage permit or license if the actor is supervising the operation of the permitted or licensed premises;

[(c) -- It is a defense to prosecution under this section for the offense of carrying a club that the actor was, at the time of the commission of the offense, a noncommissioned security guard at an institution of higher education who carried a nightstick or similar club, and who had undergone 15 hours of training in the proper use of the club, including at least seven hours of training in the use of the club for nonviolent restraint. For the purposes of this section, "nonviolent restraint" means the use of reasonable force, not intended and not likely to inflict bodily injury.

[(d) -- It is a defense to prosecution under this section for the offense of carrying a firearm or carrying a club that the actor was, at the time of the commission of the offense, a public security officer employed by the adjutant general under Section 431.029, Government Code, and was performing official duties or traveling to or from a place of duty;

[(e)] Except as provided by Subsection (c) [(f)], an offense under this section is a Class A misdemeanor.

(c) [(f)] An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic

10-1 beverages.

10-2 SECTION 22. Sections 46.03(b) and (c), Penal Code, are
10-3 amended to read as follows:

10-4 (b) It is a defense to prosecution under Subsections
10-5 (a)(1)-(4) that the actor possessed a firearm while in the actual
10-6 discharge of his official duties as a [~~peace-officer-or--a~~] member
10-7 of the armed forces or national guard or a guard employed by a
10-8 penal institution, or an officer of the court.

10-9 (c) In this section:

10-10 (1) "Premises" has the meaning assigned by Section
10-11 46.035.

10-12 (2) "Secured [~~secured~~] area" means an area of an
10-13 airport terminal building to which access is controlled by the
10-14 inspection of persons and property under federal law.

10-15 SECTION 23. Section 46.035(b), Penal Code, is amended to
10-16 read as follows:

10-17 (b) A license holder commits an offense if the license
10-18 holder intentionally, knowingly, or recklessly carries a handgun
10-19 under the authority of Article 4413(29ee), Revised Statutes,
10-20 regardless of whether the handgun is concealed, on or about the
10-21 license holder's person:

10-22 (1) on the premises of a business that has a permit or
10-23 license issued under Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic
10-24 Beverage Code, if the business derives 51 percent or more of its
10-25 income from the sale or service of alcoholic beverages for
10-26 on-premises consumption, as determined by the Texas Alcoholic
10-27 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

10-28 (2) on the premises where a high school, collegiate,
10-29 or professional sporting event or interscholastic event is taking
10-30 place, unless the license holder is a participant in the event and
10-31 a handgun is used in the event;

10-32 (3) on the premises of a correctional facility;

10-33 (4) on the premises of a hospital licensed under
10-34 Chapter 241, Health and Safety Code, or on the premises of a
10-35 nursing home licensed under Chapter 242, Health and Safety Code,
10-36 unless the license holder has written authorization of the hospital
10-37 or nursing home administration, as appropriate;

10-38 (5) in an amusement park; or

10-39 (6) on the premises of a church, synagogue, or other
10-40 established place of religious worship.

10-41 SECTION 24. Section 46.15, Penal Code, is amended to read as
10-42 follows:

10-43 Sec. 46.15. NONAPPLICABILITY [~~TO-----PEACE-----OFFICERS~~].

10-44 (a) Sections 46.02 and 46.03 do not apply to peace officers and
10-45 neither section prohibits a peace officer from carrying a weapon in
10-46 this state, regardless of whether the officer is engaged in the
10-47 actual discharge of the officer's duties while carrying the weapon.

10-48 (b) Section 46.02 does not apply to a person who:

10-49 (1) is in the actual discharge of official duties as a
10-50 member of the armed forces or state military forces as defined by
10-51 Section 431.001, Government Code, or as a guard employed by a penal
10-52 institution;

10-53 (2) is on the person's own premises or premises under
10-54 the person's control unless the person is an employee or agent of
10-55 the owner of the premises and the person's primary responsibility
10-56 is to act in the capacity of a security guard to protect persons or
10-57 property, in which event the person must comply with Subdivision
10-58 (5);

10-59 (3) is traveling;

10-60 (4) is engaging in lawful hunting, fishing, or other
10-61 sporting activity on the immediate premises where the activity is
10-62 conducted, or is directly en route between the premises and the
10-63 actor's residence, if the weapon is a type commonly used in the
10-64 activity;

10-65 (5) holds a security officer commission issued by the
10-66 Texas Board of Private Investigators and Private Security Agencies,
10-67 if:

10-68 (A) the person is engaged in the performance of
10-69 the person's duties as a security officer or traveling to and from

11-1 the person's place of assignment;

11-2 (B) the person is wearing a distinctive uniform;
11-3 and

11-4 (C) the weapon is in plain view;

11-5 (6) is carrying a concealed handgun and a valid
11-6 license issued under Article 4413(29ee), Revised Statutes, to carry
11-7 a concealed handgun of the same category as the handgun the person
11-8 is carrying;

11-9 (7) holds a security officer commission and a personal
11-10 protection authorization issued by the Texas Board of Private
11-11 Investigators and Private Security Agencies and who is providing
11-12 personal protection under the Private Investigators and Private
11-13 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
11-14 Statutes); or

11-15 (8) holds an alcoholic beverage permit or license or
11-16 is an employee of a holder of an alcoholic beverage permit or
11-17 license if the person is supervising the operation of the permitted
11-18 or licensed premises.

11-19 (c) The provision of Section 46.02 prohibiting the carrying
11-20 of a club does not apply to a noncommissioned security guard at an
11-21 institution of higher education who carries a nightstick or similar
11-22 club, and who has undergone 15 hours of training in the proper use
11-23 of the club, including at least seven hours of training in the use
11-24 of the club for nonviolent restraint. For the purposes of this
11-25 subsection, "nonviolent restraint" means the use of reasonable
11-26 force, not intended and not likely to inflict bodily injury.

11-27 (d) The provisions of Section 46.02 prohibiting the carrying
11-28 of a firearm or carrying of a club do not apply to a public
11-29 security officer employed by the adjutant general under Section
11-30 431.029, Government Code, in performance of official duties or
11-31 while traveling to or from a place of duty.

11-32 SECTION 25. Section 1(10), Article 4413(29ee), Revised
11-33 Statutes, is repealed.

11-34 SECTION 26. (a) The changes in law made by this Act in
11-35 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
11-36 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
11-37 amending Sections 12.092 and 12.095, Health and Safety Code, as
11-38 added by Chapter 165, Acts of the 74th Legislature, Regular
11-39 Session, 1995, apply only to a person's initial application for a
11-40 license to carry a concealed handgun under Article 4413(29ee),
11-41 Revised Statutes, if the application is made on or after the
11-42 effective date of this Act. A person who makes an initial
11-43 application for a license to carry a concealed handgun under
11-44 Article 4413(29ee), Revised Statutes, before the effective date of
11-45 this Act is covered by the law that existed when the application
11-46 was made, and the former law is continued in effect for that
11-47 purpose.

11-48 (b) The changes in law made by this Act in repealing Section
11-49 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
11-50 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
11-51 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
11-52 of the 74th Legislature, Regular Session, 1995, regarding the
11-53 revocation of a license to carry a handgun, apply to any revocation
11-54 proceeding initiated on or after the effective date of this Act.

11-55 SECTION 27. Not later than September 1, 1998, a person who
11-56 before the effective date of this Act was licensed to carry a
11-57 concealed handgun under Article 4413(29ee), Revised Statutes, and
11-58 whose license was revoked on the sole basis that the person was
11-59 charged with the commission of a Class A or Class B misdemeanor or
11-60 an offense under Section 42.01, Penal Code, or a felony under an
11-61 information or indictment may apply to the department to change the
11-62 status of the person's license in accordance with Sections 12 and
11-63 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
11-64 The Department of Public Safety shall promptly place the person's
11-65 license on suspension, if the charges against the person are still
11-66 pending, or reinstate the person's license, if the charges against
11-67 the person have been dismissed.

11-68 SECTION 28. Not later than December 1, 1997, the Department
11-69 of Public Safety shall establish the procedure and shall commence

any negotiation required by Section 35, Article 4413(29ee), Revised Statutes, as amended by this Act.

SECTION 29. (a) The Texas Alcoholic Beverage Commission shall:

(1) not later than October 1, 1997, adopt the rules required by Section 104.06, Alcoholic Beverage Code, as added by this Act; and

(2) at the time of the issuance or the first renewal of a license or permit under the Alcoholic Beverage Code, that allows on-premises consumption of any alcoholic beverage and that occurs on or after October 1, 1997, make the initial determination required by Section 104.06, Alcoholic Beverage Code, as added by this Act.

(b) The change in law made by this Act to Section 31, Article 4413(29ee), Revised Statutes, applies only to the display of a sign on or after the date the Texas Alcoholic Beverage Commission makes an initial determination under Section 104.06, Alcoholic Beverage Code, as added by this Act, in accordance with Subsection (a)(2) of this section, with respect to the holder of a license or permit who conducts business on the premises for which the determination is made.

(c) The change in law made by this Act to Section 46.035, Penal Code, relating to the Texas Alcoholic Beverage Commission's determination of the percentage of income derived from the sale or service of alcoholic beverages for on-premises consumption applies only to an offense committed on or after October 1, 1998. For purposes of this section, an offense is committed before October 1, 1998, if any element of the offense occurs before that date.

SECTION 30. The changes in law made by this Act to Sections 46.02, 46.03, and 46.15, Penal Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 31. This Act takes effect September 1, 1997.

SECTION 32. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

**FAVORABLE
SENATE COMMITTEE REPORT ON**

SB SCR SJR SR HB HCR HJR 2909
By Carver et al. / Patterson
(Author/Senate Sponsor)
5-18-97
(date)

Sir:

We, your Committee on CRIMINAL JUSTICE, to which was referred the attached measure, have on May 18 1997, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

☒ do pass and be printed

☐ do pass and be ordered not printed

☐ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☐ yes ☒ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Whitmire, Chairman	<input checked="" type="checkbox"/>			
Senator Shapiro, Vice-Chairman	<input checked="" type="checkbox"/>			
Senator Duncan	<input checked="" type="checkbox"/>			
Senator Nelson	<input checked="" type="checkbox"/>			
Senator Patterson	<input checked="" type="checkbox"/>			
Senator Shapleigh		<input checked="" type="checkbox"/>		
Senator West		<input checked="" type="checkbox"/>		
TOTAL VOTES	5	2	0	0

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

Laura Appelt
COMMITTEE CLERK

John Whitmire
CHAIRMAN

Paper clip the original and one copy of this signed form to the original bill
Retain one copy of this form for Committee files

BILL ANALYSIS

Senate Research Center

H.B. 2909
By: Carter (Patterson)
Criminal Justice
5-17-97
Engrossed

DIGEST

In 1995, the Texas Legislature passed the Concealed Handgun Licensing bill giving law-abiding Texans a procedure by which to obtain a license themselves to carry a handgun. In the development of the original bill, some conforming language was omitted and experience over two years has indicated some changes necessary to orderly implementation of the law. This bill sets forth provisions regarding persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

PURPOSE

As proposed, H.B. 2909 set forth provisions regarding a person eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Public Safety in SECTION 12 (Sec. 35(a), Article 4413(29ee) and to the Alcoholic Beverage Commission in SECTION 17 (Sec. 104.069b), Alcoholic Beverage Code).

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2(a), Article 4413(29ee), V.T.C.S., to provide that a person is eligible for a license to carry a concealed handgun if the person is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(a) of this article and is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun, rather than described as a person of unsound mind.

SECTION 2. Amends Section 2, Article 4413(29ee), by adding Subsection (d), to provide that a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun under certain conditions. Provides that a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subdivision (1) or listed in Subdivision (2) is not incapable of exercising sound judgment with respect to proper use of a handgun if the person provides the Department of Public Safety (department) with a certificate from a licensed physician stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop in the future.

SECTION 3. Amends Section 3(a), Article 4412(29ee), V.T.C.S., to require an applicant for a license to carry a concealed handgun to submit to the director's designee described by Section 5 of this article two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency or an entity qualified to take fingerprints of an applicant of a license under this article.

SECTION 4. Amends Section 5(b), Article 4413(29ee), V.T.C.S., to provide that the scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than 60 days after the date the department received the application materials. Requires the department to conduct further

record check or investigation the department determines is necessary in the event that the question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than 180 days after the date the department received the application materials from the applicant.

SECTION 5. Amends Section 6(b), Article 4413(29ee), V.T.C.S., to require the department to notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the amount of time the department will need to make the determination. Deletes a provision requiring the department to perform certain duties not later than the 90th day after the date of the receipt by the director's designee of the completed application materials.

SECTION 6. Amends Sections 6(g), (h), and (i), Article 4413(29ee), to delete a provision requiring the license holder to display both the license and the license holder's driver's license or identification certificate issued by the department on the demand by a magistrate or a peace officer. Provides that a person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 13 of this article. Provides that a person commits a Class B misdemeanor if the person fails or refuses to display the license and identification as required by Subsection (g) of this section after previously having had the person's license suspended for a violations of that subsection.

SECTION 7. Amends Section 12(a), Article 4413(29ee), V.T.C.S., to authorize a license to be revoked under this section if the license holder subsequently becomes ineligible for a license under Section 2 of this article unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, of a felony under an information or indictment or is determined by the department to have engaged in certain conduct.

SECTION 8. Amends Sections 13(a) and (c), Article 4413(29ee), V.T.C.S., to provide that a license may be suspended under this section for certain time periods depending on the reasons for suspension listed in Subsection (a). Makes a conforming change.

SECTION 9. Amend Section 17(c), Article 4413(29ee), V.T.C.S., to set forth provisions regarding the department's determination for denial of a license.

SECTION 10. Amends Sections 18(c) and (f), to require the department to issue a license to carry a concealed handgun, rather than waive the requirements regarding a handgun proficiency certification under Section 17 of this article, under the authority of this article to any person who is certified as a qualified handgun instructor and who pays to the department a fee of \$100 in addition to the training fee, rather than takes and successfully completes training under this subsection. Requires the department to take certain action against a person's license to carry a concealed handgun if the person is an applicant for or holder of such a license and the person's certification as a qualified handgun instructor, rather than regardless of whether the person has a license issued under this article to carry a concealed handgun.

SECTION 11. Amends Section 31, Article 4413(29ee), V.T.C.S., by amending Subsections (a) and (b) and adding Subsections (d) and (e), to require a business that has a permit or licence issued under Chapter 74, Alcoholic Beverage Code and derives a certain percentage of its income from the sale of alcoholic beverages for on-premises consumption as determined by Texas Alcoholic Beverage Code, to prominently display certain signs under this subsection. Requires the signs to include on its face the number "51" printed in solid red at least five inches in height. Provides that a business that has permit or license issued under the Alcoholic Beverage Code and that is not required to display a sign under this section may be required to display a sign under Section 11.041 or Section 61.11, Alcoholic Beverage Code. Provides that this section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.

SECTION 12. Amends Section 35, Article 4413(29ee), V.T.C.S., as follows:

Sec. 35. New heading: NONRESIDENT LICENSE. Deletes provisions regarding a reciprocal license. Sets forth provisions regarding a nonresident license.

SECTION 13. Amends Chapter 11, Alcoholic Beverage Code, by adding Section 11.041, as follows:

Sec. 11.041. WARNING SIGN REQUIRED. Sets forth provisions regarding warning signs that give notice that it is unlawful for a person to carry a weapon on the premises under certain conditions.

SECTION 14. Amends Section 11.61(a), Alcoholic Beverage Code, to provide that this subsection does not apply to a person who possesses a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), V.T.C.S., unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 15. Amends Section 61.11, Alcoholic Beverage Code, to require each holder of a license who is not otherwise required to display a sign under Section 31, Article 4413(29ee), V.T.C.S., to display in a prominent place on the license holder's premises a sign stating certain information. Sets forth the appearance of the sign. Deletes the existing language relating to the sign. Deletes a provision providing that a licensee who violates this section commits a misdemeanor punishable by a fine of not more than \$25.

SECTION 16. Amends Section 61.71(f), Alcoholic Beverage Code, to make a conforming change.

SECTION 17. Amends Chapter 104, Alcoholic Beverage Code, by adding Section 104.06, as follows:

Sec. 104.06. MONITORING OF GROSS RECEIPTS. Sets forth provisions regarding the monitoring of gross receipts for the premises for which the licence or permit is issued.

SECTION 18. Amends Section 12.092(b), Health and Safety Code, to require the medical advisory board to assist the Department of Public Safety in determining whether an applicant for or holder of a license to carry a concealed handgun under the authority of Article 4413(29ee), V.T.C.S., is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

SECTION 19. Amends Sections 12.095(a), (c), and (d), Health and Safety Code, as added by Chapter 165, Acts of the 74th Legislature, Regular Session, 1995, to require the commissioner of public health (commissioner) or a person designated by the commissioner to convene a panel to consider the case or question submitted by the department if the Department of Public Safety requests an opinion or recommendation from the medical advisory board as to the ability of an applicant or license holder to exercise sound judgment with respect to the proper use and storage of a handgun. Makes conforming and nonsubstantive changes.

SECTION 20. Amends Chapter 30, Penal Code, by adding Section 30.06, as follows:

Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN. Provides that a license holder commits a Class A misdemeanor if the person performs certain actions. Provides that a person received notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral and written communication. Defines "entry" and "license holder."

SECTION 21. Amends Section 46.02, Penal Code, to delete provisions regarding certain defenses to prosecution under this section.

SECTION 22. Amends Section 46.03(b) and (c), Penal Code, to delete a peace officer from the provisions of Subsection (a). Defines "premises" and redefines "secured area."

SECTION 23. Amends Section 46.035(b), Penal Code, to make a conforming change.

SECTION 24. Amends Section 46.15, Penal Code, as follows:

Sec. 46.15. New heading: NONAPPLICABILITY. Provides that this section does not apply to certain persons.

SECTION 25. Repealer: Section 1(10), Article 4413(29ee), V.T.C.S. (Definitions).

SECTION 26. Makes application of this Act prospective.

SECTION 27. Authorizes a person, who before the effective date of this Act was licensed to carry a concealed handgun under Article 4413(29ee), V.T.C.S., and whose license was revoked on the sole basis that the person was charged with the commission of certain offenses to apply to the department to change the status of the person's license in accordance with Sections 12 and 13 Article 4413(29ee), V.T.C.S., by a certain date. Requires the Department of Public Safety to promptly place the person's license on suspension if the charges against the person are still pending or reinstate the person's license if the charges against the person have been dismissed.

SECTION 28. Requires the Department of Public Safety to establish procedures and to commence any negotiations required by Section 25, Article 4413(29ee), V.T.C.S., by a certain date.

SECTION 29. Sets forth certain requirements for the Texas Alcoholic Beverage Commission regarding the adoption of rules and other determinations. Makes application of this Act prospective.

SECTION 30. Makes application of this Act prospective.

SECTION 31. Effective date: September 1, 1997.

SECTION 32. Emergency clause.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

75th Regular Session

May 16, 1997

To: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: House Bill No. 2909, As
Engrossed

By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Engrossed

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

The bill would require that the Department of Public Safety (DPS) establish procedures for reciprocal agreements with other states to honor concealed handgun permits.

The bill would also require the Texas Alcoholic Beverage Commission (TABC) to determine if certain permit and license holders derive a majority of their gross receipts from the sale of alcoholic beverages. Each business so designated would have to display a sign regarding the legality of carrying concealed handguns on its premises.

Methodology

DPS would be required to coordinate with other states regarding concealed handgun permits. In addition, DPS would need to process out-of-state applications and make programming changes to the concealed handgun database to accommodate these applications. Although there would be added responsibility, it is assumed that the new responsibility could be fulfilled with current resources.

TABC would have to make a determination on an estimated 15,000 permits with a 10 percent audit rate. The cost of this responsibility would be offset by an equal amount of fee revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
1998	(\$324,100)	\$324,100	4.0
1999	(276,100)	276,100	4.0
2000	(276,100)	276,100	4.0
2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

75th Regular Session

April 10, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909,
Committee Report 1st House,
Substituted
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

**Biennial Net Impact to General Revenue Funds by HB2909-Committee Report 1st House,
Substituted**

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

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The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

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2000	(276,100)	276,100	4.0
2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

**FISCAL NOTE
75th Regular Session**

April 7, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Introduced

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
304 Comptroller of Public Accounts

LBB Staff: JK, CB, RS



Committees:

- Public Safety
- State Affairs

State of Texas
House of Representatives
BILL G. CARTER
DISTRICT 91

Chairman
Tarrant County Delegation

April 14, 1997

Statement of Representative Bill G. Carter regarding the vote on House Bill 2909 on April 7, 1997 in the House Committee on Public Safety.

I was presenting a bill in another committee when the vote was taken on HB 2909. Had I been present I would have voted aye.

Signed

A handwritten signature of Bill G. Carter in cursive script, written over a horizontal line.

Bill G. Carter

Austin Office:

P.O. Box 2910
Austin, Texas 78768-2910
512-463-0482

District Office:

3525 Denton Hwy., Ste. A
Fort Worth Texas 76117
817-595-0072

WITNESS LIST

HB 2909
SENATE COMMITTEE REPORT
Criminal Justice Committee

May 18, 1997 - 6:00P

Against: Elfant, Bruce (self), Austin

Registering, but not testifying:

For: Atkins, Neal (self), Austin

Brown, Dr. James T. (TX State Rifle Ass'n), Goldthwaite

Day, Dee (Eagle Pk Shooting Range), Austin

Day, Jim (Garland Shooting Range), Garland

Garrett, Larry D. (self), Austin

Henderson, David (self), Austin

Henderson, Lunda (self), Austin

Linnebur, Harold David (self), Austin

Lockett, Carol R. (self), Austin

Lockett, Landon (self), Austin

Nicholson, James D. (TX State Rifle Ass'n), Dallas

Reilly, Tara (National Rifle Ass'n), Fairfax

Velte, Paul (PTFR), Austin

Wallace, Charles (self), Austin

Against: Hernandez, Leslie (Nat'l Ass'n Social Work), Austin

TAG FORM

RECEIVED
SECRETARY OF SENATE

'97 MAY 16 AM 11:28

May 16, 1997
Date

Austin, Texas

To the Chairman of the Committee on Criminal Justice:

Pursuant to Senate Rule 11.20, I hereby request 48 hours advance notice in writing of the time and place of the hearing on HB. No. 2909

L. D. Darriens

Give the original of this form to Calendar Clerk for placement on the bill, give one copy to the Secretary of the Senate's office, and one copy to the Chairman of the committee to which the bill was referred.

ADOPTED

MAY 27 1997

Shane
Floor Amendment No. 1a

J. Patterson
By: Patterson

2991
Amend House Bill 2909 on page 17, line 12 of the Senate Committee report by inserting a new Section 1 and renumbering the following sections as follows:

Section 1. Section 1(4), Article 4413(29ee), Revised Statutes is amended to read as follows:

(4) "Convicted" means an adjudication of guilt or an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not:

~~(A) the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication which has been subsequently:~~

~~(A) set aside or expunged; or~~

~~(B) pardoned under the authority of a state or federal official; or~~

~~(B) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.~~

ADOPTED

MAY 27 1997

Floor Amendment No. 2

Letty Ling
Secretary of the Senate

J. Patterson
By: Patterson

Amend House Bill 2909 on page 5, line 59 of the Senate Committee report by inserting a new Section 11 and renumbering the following sections as follows:

SECTION 11. Article 4413(29ee), Section 28, Revised Statutes, is amended as follows and a new Section 28A is added to read as follows:

Sec. 28. HONORABLY RETIRED PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415, Government Code, and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this article on retirement. The application must be made not later than the first anniversary after the date of retirement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency employing the applicant. No head of a law enforcement agency may refuse to issue a statement under this subsection. If the statement is alleged by the applicant to be untrue, the Department shall investigate the validity of the statement. The statement shall include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant before retirement;
- (3) whether or not the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;
- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;
- (6) whether the applicant would be eligible for reemployment with the agency, and if not, the reasons the applicant is not eligible; and
- (7) a recommendation from the agency head regarding the issuance of a license under this article.

(c) The department may issue a license under this article to an applicant under this section if the applicant is honorably

retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

(1) did not retire in lieu of any disciplinary action;
(2) was employed as a full-time peace officer for not less than 10 years by one agency; and

(3) is entitled to receive a pension or annuity for service as a law enforcement officer.

(d) An applicant under this section shall pay a fee of \$25 for a license issued under this article.

(e) A retired peace officer who obtains a license under this article must maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 415.035, Government Code. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 9 of this article.

(g) A retired ~~Criminal investigator~~ officer of the United States who ~~is designated as a "special agent"~~ was eligible to carry a firearm in the discharge of his official duties is eligible for a license under this section. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

(1) retirement credentials; and

(2) a letter from the agency head stating the applicant retired in good standing.

Sec. 28A. ACTIVE PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415, Government Code, and is employed full time as a peace officer by a law

enforcement agency may apply for a license under this article.
The person shall submit to the department two complete sets of
legible and classifiable fingerprints and a sworn statement of
the head of the law enforcement agency employing the applicant.
No head of a law enforcement agency may refuse to issue a
statement under this subsection. If the statement is alleged by
the applicant to be untrue, the Department shall investigate
the validity of the statement. The statement must include:

(1) the name and rank of the applicant;

(2) whether the applicant has been accused of misconduct
at any time during the applicant's period of employment with
the agency and the disposition of that accusation;

(3) a description of the physical and mental condition of
the applicant;

(4) a list of the types of weapons the applicant has
demonstrated proficiency with during the preceding year; and

(5) a recommendation from the agency head that a license
be issued to the person under this article.

(b) The department may issue a license under this article to
an applicant under this section if the statement from the head
of the law enforcement agency employing the applicant complies
with Subsection (a) of this section and indicates that the
applicant is qualified and physically and mentally fit to
carry a handgun.

(c) An applicant under this section shall pay a fee of \$25
for a license issued under this article.

(d) A license issued under this section expires as provided
by Section 9 of this article.

ADOPTED

MAY 27 1997

Floor Amendment No. 3

Letty Ling
Secretary of the Senate

J. Patterson
By: Patterson

Amend House Bill 2909 on page 5, line 15 of the Senate Committee report by inserting a new Section 9 and renumbering the following sections as follows:

Section 9. Section 16(a), Article 4413(29ee), Revised Statutes is amended to read as follows:

(a) The director shall by rule establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. An applicant may not be certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a ~~9-millimeter or .38-caliber~~ handgun of .32 caliber or above. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

ADOPTED

MAY 27 1997

Floor Amendment No. 4

Letty Ling
Secretary of the Senate

J. Patterson
By: Patterson

Amend Senate Committee report on House Bill 2909 as follows:

1. On page 9, line 5, insert a new Subsection (c)(3) as follows:

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Article 4413(29ee), Revised Statutes (concealed handgun law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.

Floor Amendment No. 5


By: Patterson

Amend House Bill 2909 on page 10, line 41 of the Committee Report by inserting a new Section 24 and renumbering the following sections as follows:

Section 24. Amend Section 46.035 of the Penal Code by inserting a new section (i) as follows:

(i) Subsections (b) (4), (b) (5), (b) (6), and (c) do not apply if the actor was not given effective notice under section 30.06 of this chapter.

ADOPTED

MAY 27 1997


Secretary of the Senate

Senate Floor Amendment No. 6

By

West Howard

Amend HB 2909 on page 8, line 67 by deleting the word "and" and inserting in lieu thereof the word "or".

ADOPTED

MAY 27 1997

Atty. Ling
Secretary of the Senate

Floor Amendment No.

7

ADOPTED

By

West

MAY 27 1997

Amend House Bill 2909 as follows:

Letty Ling
Secretary of the Senate

In SECTION 2 of the bill, in subsection (d)(3), insert the following after the words "licensed physician":

"whose primary practice is in the field of psychiatry"

Floor Amendment No. 8b

By: Patterson

Amend the Shapiro Amendment to House Bill 2909 on line 24 of page 1 by striking the period and inserting a new subsection (4) and a new subsection (5) as follows:

(4) a judge or justice of the Supreme Court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court, who is licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes; ~~or~~

(5) a county attorney, district attorney, criminal district attorney, assistant county attorney, assistant district attorney, or assistant criminal district attorney who is licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

ADOPTED

25 ayes 6 noes
MAY 27 1997

Letty Ling
Secretary of the Senate

ADOPTED *as amended*

MAY 27 1957

Letty King
Secretary of the Senate

Frank R. Jones

FLOOR AMENDMENT NO. 8

Amend H.B. No. 2909 as follows:

(1) In SECTION 24, in amended Section 46.15, Penal Code,
(House engrossment, page ¹⁰~~25~~, lines ^{44.47}~~9-13~~), strike Subsection (a) and
substitute the following:

" (a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers and neither section prohibits a peace
officer from carrying a weapon in this state, regardless of whether
the officer is engaged in the actual discharge of the officer's
duties while carrying the weapon;

(2) parole officers and neither section prohibits an
officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the
officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures
adopted by the Texas Department of Criminal Justice regarding the
possession of a weapon by an officer while on duty; or

(3) community supervision and corrections department
officers appointed or employed under Section 76.004, Government
Code, and neither section prohibits an officer from carrying a
weapon in this state if the officer is:

(A) engaged in the actual discharge of the
officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section
76.0051, Government Code: "

--(2) Add appropriately numbered SECTIONS to the bill to read

1 as follows and renumber existing SECTIONS accordingly:

2 SECTION 76. Chapter 76, Government Code, is amended by adding
3 Section 76.0051 to read as follows:

4 Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is
5 authorized to carry a weapon while engaged in the actual discharge
6 of the officer's duties only if:

7 (1) the officer possesses a certificate of firearm
8 proficiency issued by the Commission on Law Enforcement Officer
9 Standards and Education under Section 415.038; and

10 (2) the director of the department and the judges
11 participating in the management of the department agree to the
12 authorization.

13 SECTION 415. Subchapter B, Chapter 415, Government Code, is
14 amended by adding Section 415.038 to read as follows:

15 Sec. 415.038. FIREARMS PROFICIENCY; SUPERVISION OFFICERS.

16 (a) The commission and the Texas Department of Criminal Justice
17 shall adopt a memorandum of understanding that establishes their
18 respective responsibilities in developing a basic training program
19 in the use of firearms by community supervision and corrections
20 department officers and parole officers. The memorandum of
21 understanding must establish a program that provides instruction
22 in:

23 (1) legal limitations on the use of firearms and on the
24 powers and authority of officers;

25 (2) range firing and procedure, and firearms safety and
26 maintenance; and

27 (3) other topics determined by the commission and the

1 division to be necessary for the responsible use of firearms by
2 officers.

3 (b) The commission and the department by rule shall adopt the
4 memorandum of understanding establishing the basic training
5 program.

6 (c) The commission shall administer the training program and
7 shall issue a certificate of firearms proficiency to each community
8 supervision and corrections department officer or parole officer
9 the commission determines has successfully completed the program
10 described by Subsection (a).

11 (d) The commission may establish reasonable and necessary
12 fees for the administration of this section.

13 SECTION -. The Commission on Law Enforcement Officer
14 Standards and Education and the Texas Department of Criminal
15 Justice shall adopt the memorandum of understanding required by
16 Section 415.038, Government Code, as added by this Act, not later
17 than January 1, 1998.

29109/1

SENATE AMENDMENTS

2nd Printing

By Carter, Chisum, Allen, Hupp, Wilson,
et al.

H.B. No. 2909

A BILL TO BE ENTITLED

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this article or is otherwise eligible for a license under Section 35(a) of this article;

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun [~~a-person-of~~

1 unsound-mind];

2 (8) has not, in the five years preceding the date of
3 application, been convicted of a Class A or Class B misdemeanor or
4 an offense under Section 42.01, Penal Code;

5 (9) is fully qualified under applicable federal and
6 state law to purchase a handgun;

7 (10) has not been finally determined to be delinquent
8 in making a child support payment administered or collected by the
9 attorney general;

10 (11) has not been finally determined to be delinquent
11 in the payment of a tax or other money collected by the
12 comptroller, state treasurer, tax collector of a political
13 subdivision of the state, Texas Alcoholic Beverage Commission, or
14 any other agency or subdivision of the state;

15 (12) has not been finally determined to be in default
16 on a loan made under Chapter 57, Education Code;

17 (13) is not currently restricted under a court
18 protective order or subject to a restraining order affecting the
19 spousal relationship, not including a restraining order solely
20 affecting property interests;

21 (14) has not, in the 10 years preceding the date of
22 application, been adjudicated as having engaged in delinquent
23 conduct violating a penal law of the grade of felony; and

24 (15) has not made any material misrepresentation, or
25 failed to disclose any material fact, in an application submitted
26 pursuant to Section 3 of this article or in a request for
27 application submitted pursuant to Section 4 of this article.

1 SECTION 2. Section 2, Article 4413(29ee), Revised Statutes,
2 is amended by adding Subsection (d) to read as follows:

3 (d)(1) For purposes of Subsection (a)(7) of this section, a
4 person is incapable of exercising sound judgment with respect to
5 the proper use and storage of a handgun if:

6 (A) the person has been diagnosed by a licensed
7 physician as suffering from a psychiatric disorder or condition
8 that causes or is likely to cause substantial impairment in
9 judgment, mood, perception, impulse control, or intellectual
10 ability;

11 (B) the person suffers from a psychiatric
12 disorder or condition described by Paragraph (A) of this
13 subdivision that:

14 (i) is in remission but is reasonably
15 likely to redevelop at a future time; or

16 (ii) requires continuous medical treatment
17 to avoid redevelopment;

18 (C) the person has been diagnosed by a licensed
19 physician or declared by a court to be incompetent to manage the
20 person's own affairs; or

21 (D) the person has entered in any criminal
22 proceeding a plea of not guilty by reason of insanity.

23 (2) The following are evidence that a person has a
24 psychiatric disorder or condition described by Subdivision (1)(A)
25 of this subsection:

26 (A) involuntary psychiatric hospitalization in
27 the preceding five-year period;

1 (B) psychiatric hospitalization in the preceding
2 two-year period;

3 (C) inpatient or residential substance abuse
4 treatment in the preceding five-year period;

5 (D) diagnosis in the preceding five-year period
6 by a licensed physician that the person is dependent on alcohol, a
7 controlled substance, or a similar substance; or

8 (E) diagnosis at any time by a licensed
9 physician that the person suffers or has suffered from a
10 psychiatric disorder or condition consisting of or relating to:

11 (i) schizophrenia or delusional disorder;

12 (ii) bipolar disorder;

13 (iii) chronic dementia, whether caused by
14 illness, brain defect, or brain injury;

15 (iv) dissociative identity disorder;

16 (v) intermittent explosive disorder; or

17 (vi) antisocial personality disorder.

18 (3) Notwithstanding Subdivision (1), a person who has
19 previously been diagnosed as suffering from a psychiatric disorder
20 or condition described by Subdivision (1) or listed in Subdivision
21 (2) is not because of that disorder or condition incapable of
22 exercising sound judgment with respect to the proper use and
23 storage of a handgun if the person provides the department with a
24 certificate from a licensed physician stating that the psychiatric
25 disorder or condition is in remission and is not reasonably likely
26 to develop at a future time.

27 SECTION 3. Section 3(a), Article 4413(29ee), Revised

Statutes, is amended to read as follows:

(a) An applicant for a license to carry a concealed handgun must submit to the director's designee described by Section 5 of this article:

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b) of this section;

(2) two recent color passport photographs of the applicant;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person [~~employed-by-a-law enforcement--agency--who--is~~] appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this article;

(6) a nonrefundable application and license fee of \$140 paid to the department;

(7) a handgun proficiency certificate described by Section 17 of this article;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this article that creates an offense under the laws of this state

1 and each provision of the laws of this state related to use of
2 deadly force; and

3 (B) fulfills all the eligibility requirements
4 listed under Section 2 of this article; and

5 (9) a form executed by the applicant that authorizes
6 the director to make an inquiry into any noncriminal history
7 records that are necessary to determine the applicant's eligibility
8 for a license under Section 2(a) of this article.

9 SECTION 4. Section 5(b), Article 4413(29ee), Revised
10 Statutes, is amended to read as follows:

11 (b) The director's designee as needed shall conduct an
12 additional criminal history record check of the applicant and an
13 investigation of the applicant's local official records to verify
14 the accuracy of the application materials. The scope of the record
15 check and the investigation are at the sole discretion of the
16 department, except that the director's designee shall complete the
17 record check and investigation not later than 60 days after the
18 date the department receives the application materials. The
19 department shall send a fingerprint card to the Federal Bureau of
20 Investigation for a national criminal history check of the
21 applicant. On completion of the investigation, the director's
22 designee shall return all materials and the result of the
23 investigation to the appropriate division of the department at its
24 Austin headquarters. The director's designee may submit to the
25 appropriate division of the department, at the department's Austin
26 headquarters, along with the application materials a written
27 recommendation for disapproval of the application, accompanied by

an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section 2 of this article. The director's designee in the appropriate geographical area may also submit the application and the recommendation that the license be issued. On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary in the event that a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than 180 days after the date the department receives the application materials from the applicant.

SECTION 5. Section 6(b), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(b) ~~Not~~ Not ~~[After-January-17-1997,--the--department,--not]~~ later than the 60th day after the date of the receipt by the director's designee of the completed application materials, the department shall:

(1) ~~[(A)]~~ issue the license; ~~[or]~~
 (2) ~~[(B)]~~ notify the applicant in writing that the application was denied:

(A) ~~[(A)]~~ on the grounds that the applicant failed to qualify under the criteria listed in Section 2 of this article;

(B) ~~[(B)]~~ based on the affidavit of the

1 director's designee submitted to the department under Section 5(b)
2 of this article; or

3 (C) ~~{+++}~~ based on the affidavit of the
4 qualified handgun instructor submitted to the department under
5 Section 17(c) of this article; or

6 (3) notify the applicant in writing that the
7 department is unable to make a determination regarding the issuance
8 or denial of a license to the applicant within the 60-day period
9 prescribed by this subsection and include in that notification an
10 explanation of the reason for the inability and an estimation of
11 the amount of time the department will need to make the
12 determination.

13 ~~[{2}--Between-the-effective-date-of--this--article--and~~
14 ~~December--31--1996--the-department-shall-perform-the-duties-set-out~~
15 ~~in-this-subsection-not-later-than-the-90th-day-after--the--date--of~~
16 ~~the-receipt-by-the-director's-designee-of-the-completed-application~~
17 ~~materials.]~~

18 SECTION 6. Sections 6(g), (h), and (i), Article 4413(29ee),
19 Revised Statutes, are amended and relettered to read as follows:

20 (g) ~~[On-a-demand-by-a-magistrate-or-a-peace-officer--that--a~~
21 ~~license--holder--display--the-license-holder's-handgun-license,--the~~
22 ~~license-holder-shall-display--both--the--license--and--the--license~~
23 ~~holder's--driver's--license-or-identification-certificate-issued-by~~
24 ~~the-department.]~~

25 ~~{h}~~ If a license holder is carrying a handgun on or about
26 the license holder's person when a magistrate or a peace officer
27 demands that the license holder display identification, the license

holder shall display both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license. A person who fails or refuses to display the license and identification as required by this subsection is subject to suspension of the person's license as provided by Section 13 of this article.

(h) [††] A person commits an offense if the person fails or refuses to display the license and identification as required by Subsection (g) [or-†h] of this section after previously having had the person's license suspended for a violation of that subsection. An offense under this subsection is a Class B misdemeanor.

SECTION 7. Section 12(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 2 of this article, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment; [or]

(4) is convicted of an offense under Section 46.035, Penal Code; or

(5) is determined by the department to have engaged in

1 conduct constituting a reason to suspend a license listed in
2 Section 13(a) of this article after the person's license has been
3 previously suspended twice for the same reason.

4 SECTION 8. Sections 13(a) and (c), Article 4413(29ee),
5 Revised Statutes, are amended to read as follows:

6 (a) A license may be suspended under this section if the
7 license holder:

8 (1) is charged with the commission of a Class A or
9 Class B misdemeanor or an offense [~~convicted-of-disorderly--conduct~~
10 ~~punishable--as--a--Class--C-misdemeanor~~] under Section 42.01, Penal
11 Code, or of a felony under an information or indictment;

12 (2) fails to display a license as required by Section
13 6 of this article;

14 (3) fails to notify the department of a change of
15 address or name as required by Section 8 of this article;

16 (4) carries a concealed handgun under the authority of
17 this article of a different category than the license holder is
18 licensed to carry; or

19 (5) [~~has---been---charged---by---indictment---with---the~~
20 ~~commission-of--an--offense--that--would--make--the--license--holder~~
21 ~~ineligible-for-a-license-on-conviction,-or~~

22 [{6}] fails to return a previously issued license
23 after a license is modified as required by Section 10(d) of this
24 article.

25 (c) A license may be suspended under this section:

26 (1) for 30 days, if the person's license is subject to
27 suspension for a reason listed in Subsection (a)(3), (4), or (5) of

1 this section, except as provided by Subdivision (3) of this
2 subsection;

3 (2) for 90 days, if the person's license is subject to
4 suspension for a reason listed in Subsection (a)(2) of this
5 section, except as provided by Subdivision (3) of this subsection;

6 (3) for not less than one year and not more than three
7 years if the person's license is subject to suspension for a reason
8 listed in Subsection (a) of this section, other than the reason
9 listed in Subsection (a)(1) of this section, and the person's
10 license has been previously suspended for the same reason; or

11 (4) until dismissal of the charges, if the person's
12 license is subject to suspension for the reason listed in
13 Subsection (a)(1) of this section.

14 SECTION 9. Section 17(c), Article 4413(29ee), Revised
15 Statutes, is amended to read as follows:

16 (c) A qualified handgun instructor may submit to the
17 department a written recommendation for disapproval of the
18 application for a license, renewal, or modification of a license,
19 accompanied by an affidavit stating personal knowledge or naming
20 persons with personal knowledge of facts that lead the instructor
21 to believe that an applicant is not qualified for handgun
22 proficiency certification. The department may use a written
23 recommendation submitted under this subsection as the basis for
24 denial of a license only if the department determines that the
25 recommendation is made in good faith and is supported by a
26 preponderance of the evidence. The department shall make a
27 determination under this subsection not later than the 45th day

1 after the date the department receives the written recommendation.
2 The 60-day period in which the department must take action under
3 Section 6(b) of this article is extended one day for each day a
4 determination is pending under this subsection.

5 SECTION 10. Sections 18(c) and (f), Article 4413(29ee),
6 Revised Statutes, are amended to read as follows:

7 (c) The department shall provide training to an individual
8 who applies for certification as a qualified handgun instructor.
9 An applicant shall pay a fee of \$100 to the department for the
10 training. An applicant must take and successfully complete the
11 training offered by the department and pay the training fee before
12 the department may certify the applicant as a qualified handgun
13 instructor. The department shall issue [~~waive--the--requirements~~
14 ~~regarding--a--handgun-proficiency-certification-under-Section-17-of~~
15 ~~this-article-for-an-applicant-for~~] a license to carry a concealed
16 handgun under the authority of this article to any person who is
17 certified as a qualified handgun instructor and who pays to the
18 department a fee of \$100 in addition to [~~takes-and-successfully~~
19 ~~completes-training-under-this-subsection--and--pays~~] the training
20 fee. The department by rule may prorate or waive the training fee
21 for an employee of another governmental entity.

22 (f) If the department determines that a reason exists to
23 revoke, suspend, or deny a license to carry a concealed handgun
24 with respect to a person who is a qualified handgun instructor or
25 an applicant for certification as a qualified handgun instructor,
26 the department shall take that action against the person's license
27 to carry a concealed handgun, if the person is an applicant for or

1 the holder of such a license, and the person's certification as a
2 qualified handgun instructor [~~regardless-of-whether-the-person-has~~
3 ~~a-license-issued-under-this-article-to-carry-a-concealed-handgun~~].

4 SECTION 11. Section 31, Article 4413(29ee), Revised
5 Statutes, is amended by amending Subsections (a) and (c) and adding
6 Subsections (d) and (e) to read as follows:

7 (a) A business that has a permit or license issued under
8 Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic Beverage Code, and
9 that derives 51 percent or more of its income from the sale of
10 alcoholic beverages for on-premises consumption as determined by
11 the Texas Alcoholic Beverage Commission under Section 104.06,
12 Alcoholic Beverage Code, shall prominently display at each entrance
13 to the business premises a sign that complies with the requirements
14 of Subsection (c) of this section.

15 (c) The sign required under Subsections (a) and (b) of this
16 section must give notice in both English and Spanish that it is
17 unlawful for a person licensed under this article to carry a
18 handgun on the premises. The sign must appear in contrasting
19 colors with block letters at least one inch in height and must
20 include on its face the number "51" printed in solid red at least
21 five inches in height. The sign shall be displayed in a
22 conspicuous manner clearly visible to the public.

23 (d) A business that has a permit or license issued under the
24 Alcoholic Beverage Code and that is not required to display a sign
25 under this section may be required to display a sign under Section
26 11.041 or Section 61.11, Alcoholic Beverage Code.

27 (e) This section does not apply to a business that has a

1 food and beverage certificate issued under the Alcoholic Beverage
2 Code.

3 SECTION 12. Section 35, Article 4413(29ee), Revised
4 Statutes, is amended to read as follows:

5 Sec. 35. NONRESIDENT [RECIPROCAL] LICENSE. (a) The
6 department by rule shall establish a procedure for a person who is
7 a legal resident of a state that does not provide for the issuance
8 of a license to carry a concealed handgun and who meets the
9 eligibility requirements of this article other than the residency
10 requirement established by Section 2(a)(1) of this article to
11 obtain a license under this article. The procedure shall include
12 payment of a fee in an amount sufficient to recover the average
13 cost to the department of obtaining a criminal history record check
14 and investigation on a nonresident applicant.

15 (b) The department shall negotiate an agreement with any
16 other state that provides for the issuance of a license to carry a
17 concealed handgun under which a license issued by the other state
18 is recognized in this state [~~On-application-by-a-person-who-has-a~~
19 ~~valid-license-to-carry-a-concealed-handgun-issued-by-another-state,~~
20 ~~the-department-may-issue-to-the-person-a-license-under-this-article~~
21 ~~without--requiring-that-the-person-meet-eligibility-requirements-or~~
22 ~~pay-fees-otherwise-imposed-under-this-article,~~~~but--only~~] if the
23 department determines that:

24 (1) the eligibility requirements imposed by the other
25 state include background check requirements that meet or exceed
26 background check [~~are--at--least-as-rigorous-as-the~~] requirements
27 imposed by federal law as a condition of receiving a handgun [~~this~~

1 ~~article~~]; and

2 (2) the other state recognizes [~~provides-reciprocal~~
3 ~~licensing-privileges-to-a-person-who-holds~~] a license issued in
4 [under] this [~~article--and--applies--for--a-license-in-the-other~~]
5 state.

6 SECTION 13. Chapter 11, Alcoholic Beverage Code, is amended
7 by adding Section 11.041 to read as follows:

8 Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a
9 permit who is not otherwise required to display a sign under
10 Section 31, Article 4413(29ee), Revised Statutes, shall display in
11 a prominent place on the permit holder's premises a sign giving
12 notice that it is unlawful for a person to carry a weapon on the
13 premises unless the weapon is a concealed handgun of the same
14 category the person is licensed to carry under Article 4413(29ee),
15 Revised Statutes.

16 (b) The sign must be at least 6 inches high and 14 inches
17 wide, must appear in contrasting colors, and shall be displayed in
18 a conspicuous manner clearly visible to the public. The commission
19 or administrator may require the permit holder to also display the
20 sign in a language other than English if it can be observed or
21 determined that a substantial portion of the expected customers
22 speak the other language as their familiar language.

23 SECTION 14. Section 11.61(e), Alcoholic Beverage Code, is
24 amended to read as follows:

25 (e) Except as provided by Subsection (f), the commission or
26 administrator shall cancel an original or renewal permit if it is
27 found, after notice and hearing, that the permittee knowingly

1 allowed a person to possess a firearm in a building on the licensed
2 premises. This subsection does not apply to a person:

3 (1) who holds a security officer commission issued by
4 the Texas Board of Private Investigators and Private Security
5 Agencies, if:

6 (A) the person is engaged in the performance of
7 the person's duties as a security officer;

8 (B) the person is wearing a distinctive uniform;
9 and

10 (C) the weapon is in plain view;

11 (2) who is a peace officer; [or]

12 (3) who is a permittee or an employee of a permittee
13 if the person is supervising the operation of the premises; or

14 (4) who possesses a concealed handgun of the same
15 category the person is licensed to carry under Article 4413(29ee),
16 Revised Statutes, unless the person is on the premises of a
17 business described by Section 46.035(b)(1), Penal Code.

18 SECTION 15. Section 61.11, Alcoholic Beverage Code, is
19 amended to read as follows:

20 Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a
21 license who is not otherwise required to display a sign under
22 Section 31, Article 4413(29ee), Revised Statutes, shall display in
23 a prominent place on the license holder's [his] premises a sign
24 giving notice that it is unlawful for a person to carry a weapon on
25 the premises unless the weapon is a concealed handgun of the same
26 category the person is licensed to carry under Article 4413(29ee),
27 Revised Statutes.

1 **(b) The sign must be [7] at least 6 inches high and 14**
2 **inches wide, must appear in contrasting colors, and shall be**
3 **displayed in a conspicuous manner clearly visible to the public**
4 **[stating:---FELONY---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN**
5 **YEARS--IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING**
6 **WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD, SERVED, OR CONSUMED].**

7 The commission or administrator may require the holder of the
8 license to also display the sign in a language other than English
9 if it can be observed or determined that a substantial portion of
10 the expected customers speak the other language as their familiar
11 language.

12 **[(b)--A--licensee--who--violates--this--section---commits---a**
13 **misdemeanor-punishable-by-a-fine-of-not-more-than-\$25.]**

14 SECTION 16. Section 61.71(f), Alcoholic Beverage Code, is
15 amended to read as follows:

16 (f) Except as provided by Subsection (g), the commission or
17 administrator shall cancel an original or renewal dealer's
18 on-premises or off-premises license if it is found, after notice
19 and hearing, that the licensee knowingly allowed a person to
20 possess a firearm in a building on the licensed premises. This
21 subsection does not apply to a person:

22 (1) who holds a security officer commission issued by
23 the Texas Board of Private Investigators and Private Security
24 Agencies, if:

25 (A) the person is engaged in the performance of
26 the person's duties as a security officer;

27 (B) the person is wearing a distinctive uniform;

1 and

2 (C) the weapon is in plain view;

3 (2) who is a peace officer; [or]

4 (3) who is a licensee or an employee of a licensee if
5 the person is supervising the operation of the premises; or

6 (4) who possesses a concealed handgun of the same
7 category the person is licensed to carry under Article 4413(29ee),
8 Revised Statutes, unless the person is on the premises of a
9 business described by Section 46.035(b)(1), Penal Code.

10 SECTION 17. Chapter 104, Alcoholic Beverage Code, is amended
11 by adding Section 104.06 to read as follows:

12 Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the
13 issuance and renewal of a license or permit that allows on-premises
14 consumption of any alcoholic beverage the commission shall
15 determine whether the holder receives, or for the issuance of a
16 license or permit is to receive, 51 percent or more of the gross
17 receipts of the premises for which the license or permit is issued
18 from the holder's sale or service of alcoholic beverages for
19 on-premises consumption.

20 (b) The commission shall:

21 (1) adopt rules for making a determination under
22 Subsection (a); and

23 (2) require a holder of a license or permit to provide
24 any information or document that the commission needs to make a
25 determination.

26 (c) If the commission makes a determination under Subsection
27 (a) that a holder of a license or permit receives 51 percent or

1 more of the gross receipts of the premises from the sale or service
2 of alcoholic beverages, the holder shall comply with the
3 requirements of Section 31, Article 4413(29ee), Revised Statutes,
4 and shall continue to comply with those requirements until the
5 commission determines that the holder receives less than 51 percent
6 of the gross receipts of the premises from the sale or service of
7 alcoholic beverages for on-premises consumption.

8 SECTION 18. Section 12.092(b), Health and Safety Code, as
9 added by Chapter 165, Acts of the 74th Legislature, Regular
10 Session, 1995, is amended to read as follows:

11 (b) The medical advisory board shall assist the Department
12 of Public Safety of the State of Texas in determining whether:

13 (1) an applicant for a driver's license or a license
14 holder is capable of safely operating a motor vehicle; or

15 (2) an applicant for or holder of a license to carry a
16 concealed handgun under the authority of Article 4413(29ee),
17 Revised Statutes, is capable of exercising sound judgment with
18 respect to the proper use and storage of a handgun.

19 SECTION 19. Sections 12.095(a), (c), and (d), Health and
20 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
21 Regular Session, 1995, are amended to read as follows:

22 (a) If the Department of Public Safety of the State of Texas
23 requests an opinion or recommendation from the medical advisory
24 board as to the ability of an applicant or license holder to
25 operate a motor vehicle safely or to exercise sound judgment with
26 respect to the proper use and storage of a handgun, the
27 commissioner or a person designated by the commissioner shall

1 convene a panel to consider the case or question submitted by that
2 department.

3 (c) Each panel member shall prepare an individual
4 independent written report for the Department of Public Safety of
5 the State of Texas that states the member's opinion as to the
6 ability of the applicant or license holder to operate a motor
7 vehicle safely or to exercise sound judgment with respect to the
8 proper use and storage of a handgun, as appropriate. In the report
9 the panel member may also make recommendations relating to that
10 department's subsequent action.

11 (d) In its deliberations, a panel may examine any medical
12 record or report that contains material that may be relevant to the
13 ability of the applicant or license holder [~~to operate a motor~~
14 ~~vehicle safely~~].

15 SECTION 20. Chapter 30, Penal Code, is amended by adding
16 Section 30.06 to read as follows:

17 Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED
18 HANDGUN. (a) A license holder commits an offense if the license
19 holder:

20 (1) carries a handgun under the authority of Article
21 4413(29ee), Revised Statutes, on property of another without
22 effective consent; and

23 (2) received notice that:

24 (A) entry on the property by a license holder
25 with a concealed handgun was forbidden; or

26 (B) remaining on the property with a concealed
27 handgun was forbidden and failed to depart.

1 **(b) For purposes of this section, a person receives notice**
2 **if the owner of the property or someone with apparent authority to**
3 **act for the owner provides notice to the person by oral and written**
4 **communication.**

5 **(c) In this section:**

6 **(1) "Entry" has the meaning assigned by Section**
7 **30.05(b).**

8 **(2) "License holder" has the meaning assigned by**
9 **Section 46.035(f).**

10 **(d) An offense under this section is a Class A misdemeanor.**

11 SECTION 21. Section 46.02, Penal Code, is amended to read as
12 follows:

13 Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person
14 commits an offense if he intentionally, knowingly, or recklessly
15 carries on or about his person a handgun, illegal knife, or club.

16 (b) ~~[It is a defense to prosecution under this section that~~
17 ~~the actor was, at the time of the commission of the offense:~~

18 ~~[(1) in the actual discharge of his official duties as~~
19 ~~a member of the armed forces or state military forces as defined by~~
20 ~~Section 431.001, Government Code, or as a guard employed by a penal~~
21 ~~institution;~~

22 ~~[(2) on his own premises or premises under his control~~
23 ~~unless he is an employee or agent of the owner of the premises and~~
24 ~~his primary responsibility is to act in the capacity of a security~~
25 ~~guard to protect persons or property, in which event he must comply~~
26 ~~with Subdivision (5);~~

27 ~~[(3) traveling;~~

1 [(4) --engaging--in--lawful--hunting,--fishing,--or--other
2 sporting-activity-on-the-immediate-premises-where-the--activity--is
3 conducted,--or--was--directly-en-route-between-the-premises-and-the
4 actor's-residence,--if-the-weapon-is-a-type--commonly--used--in--the
5 activity;

6 [(5) --a--person-who-holds-a-security-officer-commission
7 issued-by-the-Texas-Board--of--Private--Investigators--and--Private
8 Security-Agencies,--if:

9 [(A) --he--is--engaged--in--the-performance-of-his
10 duties-as-a-security-officer-or-traveling-to-and-from-his-place--of
11 assignment;

12 [(B) --he-is-wearing-a-distinctive-uniform,--and

13 [(C) --the-weapon-is-in-plain-view,--or

14 [(7) --carrying--a-concealed-handgun-and-a-valid-license
15 issued-under-Article--4413(29ee),--Revised--Statutes,--to--carry--a
16 concealed-handgun-of-the-same-category-as-the-handgun-the-person-is
17 carrying;

18 [(7) --a--person-who-holds-a-security-officer-commission
19 and-a-personal-protection-authorization-issued-by-the--Texas--Board
20 of--Private--Investigators-and-Private-Security-Agencies-and-who-is
21 providing-personal-protection-under-the-Private--Investigators--and
22 Private--Security--Agencies-Act-(Article-4413(29bb),--Vernon's-Texas
23 Civil-Statutes);

24 [(7) --a-holder--of--an--alcoholic--beverage--permit--or
25 license--or-an-employee-of-a-holder-of-an-alcoholic-beverage-permit
26 or-license-if--the--actor--is--supervising--the--operation--of--the
27 permitted-or-licensed-premises;

1 [~~(c)~~]~~--It--is--a-defense-to-prosecution-under-this-section-for~~
2 ~~the-offense-of-carrying-a-club-that-the-actor-was,at-the--time--of~~
3 ~~the--commission-of-the-offense,a-noncommissioned-security-guard-at~~
4 ~~an-institution-of-higher-education--who--carried--a--nightstick--or~~
5 ~~similar--club,--and--who--had-undergone-15-hours-of-training-in-the~~
6 ~~proper-use-of-the-club,including-at-least-seven-hours-of--training~~
7 ~~in--the-use-of-the-club-for-nonviolent-restraint.--For-the-purposes~~
8 ~~of-this-section,"nonviolent-restraint"-means-the-use-of-reasonable~~
9 ~~force,not-intended-and-not-likely-to-inflict-bodily-injury.~~

10 [~~(d)~~]~~--It-is-a-defense-to-prosecution-under-this--section--for~~
11 ~~the-offense-of-carrying-a-firearm-or-carrying-a-club-that-the-actor~~
12 ~~was,--at--the--time--of--the--commission--of--the-offense,a-public~~
13 ~~security-officer-employed-by-the--adjutant--general--under--Section~~
14 ~~431.029,--Government--Code,--and--was-performing-official-duties-or~~
15 ~~traveling-to-or-from-a-place-of-duty.~~

16 [~~(e)~~] Except as provided by Subsection (c) [~~(f)~~], an offense
17 under this section is a Class A misdemeanor.

18 (c) [~~(f)~~] An offense under this section is a felony of the
19 third degree if the offense is committed on any premises licensed
20 or issued a permit by this state for the sale of alcoholic
21 beverages.

22 SECTION 22. Sections 46.03(b) and (c), Penal Code, are
23 amended to read as follows:

24 (b) It is a defense to prosecution under Subsections
25 (a)(1)-(4) that the actor possessed a firearm while in the actual
26 discharge of his official duties as a [~~peace-officer-or--a~~] member
27 of the armed forces or national guard or a guard employed by a

1 penal institution, or an officer of the court.

2 (c) In this section:

3 (1) "Premises" has the meaning assigned by Section
4 46.035.

5 (2) "Secured [~~"secured~~] area" means an area of an
6 airport terminal building to which access is controlled by the
7 inspection of persons and property under federal law.

8 SECTION 23. Section 46.035(b), Penal Code, is amended to
9 read as follows:

10 (b) A license holder commits an offense if the license
11 holder intentionally, knowingly, or recklessly carries a handgun
12 under the authority of Article 4413(29ee), Revised Statutes,
13 regardless of whether the handgun is concealed, on or about the
14 license holder's person:

15 (1) on the premises of a business that has a permit or
16 license issued under Chapter 25, 28, 32, [~~or~~] 69, or 74, Alcoholic
17 Beverage Code, if the business derives 51 percent or more of its
18 income from the sale or service of alcoholic beverages for
19 on-premises consumption, as determined by the Texas Alcoholic
20 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

21 (2) on the premises where a high school, collegiate,
22 or professional sporting event or interscholastic event is taking
23 place, unless the license holder is a participant in the event and
24 a handgun is used in the event;

25 (3) on the premises of a correctional facility;

26 (4) on the premises of a hospital licensed under
27 Chapter 241, Health and Safety Code, or on the premises of a

nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

SECTION 24. Section 46.15, Penal Code, is amended to read as follows:

Sec. 46.15. NONAPPLICABILITY [~~TO-----PEACE----~~OFFICERS].

(a) Sections 46.02 and 46.03 do not apply to peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon.

(b) Section 46.02 does not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 431.001, Government Code, or as a guard employed by a penal institution;

(2) is on the person's own premises or premises under the person's control unless the person is an employee or agent of the owner of the premises and the person's primary responsibility is to act in the capacity of a security guard to protect persons or property, in which event the person must comply with Subdivision (5);

(3) is traveling;

(4) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is

1 conducted, or is directly en route between the premises and the
2 actor's residence, if the weapon is a type commonly used in the
3 activity;

4 (5) holds a security officer commission issued by the
5 Texas Board of Private Investigators and Private Security Agencies,
6 if:

7 (A) the person is engaged in the performance of
8 the person's duties as a security officer or traveling to and from
9 the person's place of assignment;

10 (B) the person is wearing a distinctive uniform;
11 and

12 (C) the weapon is in plain view;

13 (6) is carrying a concealed handgun and a valid
14 license issued under Article 4413(29ee), Revised Statutes, to carry
15 a concealed handgun of the same category as the handgun the person
16 is carrying;

17 (7) holds a security officer commission and a personal
18 protection authorization issued by the Texas Board of Private
19 Investigators and Private Security Agencies and who is providing
20 personal protection under the Private Investigators and Private
21 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
22 Statutes); or

23 (8) holds an alcoholic beverage permit or license or
24 is an employee of a holder of an alcoholic beverage permit or
25 license if the person is supervising the operation of the permitted
26 or licensed premises.

27 (c) The provision of Section 46.02 prohibiting the carrying

1 of a club does not apply to a noncommissioned security guard at an
2 institution of higher education who carries a nightstick or similar
3 club, and who has undergone 15 hours of training in the proper use
4 of the club, including at least seven hours of training in the use
5 of the club for nonviolent restraint. For the purposes of this
6 subsection, "nonviolent restraint" means the use of reasonable
7 force, not intended and not likely to inflict bodily injury.

8 (d) The provisions of Section 46.02 prohibiting the carrying
9 of a firearm or carrying of a club do not apply to a public
10 security officer employed by the adjutant general under Section
11 431.029, Government Code, in performance of official duties or
12 while traveling to or from a place of duty.

13 SECTION 25. Section 1(10), Article 4413(29ee), Revised
14 Statutes, is repealed.

15 SECTION 26. (a) The changes in law made by this Act in
16 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
17 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
18 amending Sections 12.092 and 12.095, Health and Safety Code, as
19 added by Chapter 165, Acts of the 74th Legislature, Regular
20 Session, 1995, apply only to a person's initial application for a
21 license to carry a concealed handgun under Article 4413(29ee),
22 Revised Statutes, if the application is made on or after the
23 effective date of this Act. A person who makes an initial
24 application for a license to carry a concealed handgun under
25 Article 4413(29ee), Revised Statutes, before the effective date of
26 this Act is covered by the law that existed when the application
27 was made, and the former law is continued in effect for that

1 purpose.

2 (b) The changes in law made by this Act in repealing Section
3 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
4 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
5 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
6 of the 74th Legislature, Regular Session, 1995, regarding the
7 revocation of a license to carry a handgun, apply to any revocation
8 proceeding initiated on or after the effective date of this Act.

9 SECTION 27. Not later than September 1, 1998, a person who
10 before the effective date of this Act was licensed to carry a
11 concealed handgun under Article 4413(29ee), Revised Statutes, and
12 whose license was revoked on the sole basis that the person was
13 charged with the commission of a Class A or Class B misdemeanor or
14 an offense under Section 42.01, Penal Code, or a felony under an
15 information or indictment may apply to the department to change the
16 status of the person's license in accordance with Sections 12 and
17 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
18 The Department of Public Safety shall promptly place the person's
19 license on suspension, if the charges against the person are still
20 pending, or reinstate the person's license, if the charges against
21 the person have been dismissed.

22 SECTION 28. Not later than December 1, 1997, the Department
23 of Public Safety shall establish the procedure and shall commence
24 any negotiation required by Section 35, Article 4413(29ee), Revised
25 Statutes, as amended by this Act.

26 SECTION 29. (a) The Texas Alcoholic Beverage Commission
27 shall:

1 (1) not later than October 1, 1997, adopt the rules
2 required by Section 104.06, Alcoholic Beverage Code, as added by
3 this Act; and

4 (2) at the time of the issuance or the first renewal
5 of a license or permit under the Alcoholic Beverage Code, that
6 allows on-premises consumption of any alcoholic beverage and that
7 occurs on or after October 1, 1997, make the initial determination
8 required by Section 104.06, Alcoholic Beverage Code, as added by
9 this Act.

10 (b) The change in law made by this Act to Section 31,
11 Article 4413(29ee), Revised Statutes, applies only to the display
12 of a sign on or after the date the Texas Alcoholic Beverage
13 Commission makes an initial determination under Section 104.06,
14 Alcoholic Beverage Code, as added by this Act, in accordance with
15 Subsection (a)(2) of this section, with respect to the holder of a
16 license or permit who conducts business on the premises for which
17 the determination is made.

18 (c) The change in law made by this Act to Section 46.035,
19 Penal Code, relating to the Texas Alcoholic Beverage Commission's
20 determination of the percentage of income derived from the sale or
21 service of alcoholic beverages for on-premises consumption applies
22 only to an offense committed on or after October 1, 1998. For
23 purposes of this section, an offense is committed before October 1,
24 1998, if any element of the offense occurs before that date.

25 SECTION 30. The changes in law made by this Act to Sections
26 46.02, 46.03, and 46.15, Penal Code, apply only to an offense
27 committed on or after the effective date of this Act. An offense

1 committed before the effective date of this Act is covered by the
2 law in effect when the offense was committed, and the former law is
3 continued in effect for that purpose. For purposes of this
4 section, an offense was committed before the effective date of this
5 Act if any element of the offense occurred before that date.

6 SECTION 31. This Act takes effect September 1, 1997.

7 SECTION 32. The importance of this legislation and the
8 crowded condition of the calendars in both houses create an
9 emergency and an imperative public necessity that the
10 constitutional rule requiring bills to be read on three several
11 days in each house be suspended, and this rule is hereby suspended.

ADOPTED

MAY 27 1997

Shene
Floor Amendment No. 1a

J. Patterson
By: Patterson

Deputy King
Secretary of the Senate
Amend House Bill 2909 on page 1, line 12 of the Senate Committee report by inserting a new Section 1 and renumbering the following sections as follows:

Section 1. Section 1(4), Article 4413(29ee), Revised Statutes is amended to read as follows:

(4) "Convicted" means an adjudication of guilt or an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not:

~~(A) the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication which has been~~
subsequently:

~~(A) set aside or expunged, or~~

~~(B) pardoned under the authority of a state or federal official, or~~

~~(B) the person is pardoned for the offense, unless the pardon is expressly granted for subsequent proof of innocence.~~

ADOPTED

MAY 27 1997

Floor Amendment No. 2

Letty Ling
Secretary of the Senate

J. Patterson
By: Patterson

Amend House Bill 2909 on page 5, line 59 of the Senate Committee report by inserting a new Section 11 and renumbering the following sections as follows:

SECTION 11. Article 4413(29ee), Section 28, Revised Statutes, is amended as follows and a new Section 28A is added to read as follows:

Sec. 28. HONORABLY RETIRED PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415, Government Code, and who has been employed full-time as a peace officer by a law enforcement agency may apply for a license under this article on retirement. The application must be made not later than the first anniversary after the date of retirement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency employing the applicant. No head of a law enforcement agency may refuse to issue a statement under this subsection. If the statement is alleged by the applicant to be untrue, the Department shall investigate the validity of the statement. The statement shall include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant before retirement;
- (3) whether or not the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;
- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;
- (6) whether the applicant would be eligible for reemployment with the agency, and if not, the reasons the applicant is not eligible; and
- (7) a recommendation from the agency head regarding the issuance of a license under this article.

(c) The department may issue a license under this article to an applicant under this section if the applicant is honorably

retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

(1) did not retire in lieu of any disciplinary action;
(2) was employed as a full-time peace officer for not less than 10 years by one agency; and

(3) is entitled to receive a pension or annuity for service as a law enforcement officer.

(d) An applicant under this section shall pay a fee of \$25 for a license issued under this article.

(e) A retired peace officer who obtains a license under this article must maintain, for the category of weapon licensed, the proficiency required for a peace officer under Section 415.035, Government Code. The department or a local law enforcement agency shall allow a retired peace officer of the department or agency an opportunity to annually demonstrate the required proficiency. The proficiency shall be reported to the department on application and renewal.

(f) A license issued under this section expires as provided by Section 9 of this article.

(g) A retired ~~criminal investigator~~ officer of the United States who ~~is designated as a "special agent" was eligible to carry a firearm in the discharge of his official duties~~ is eligible for a license under this section. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

(1) retirement credentials; and
(2) a letter from the agency head stating the applicant retired in good standing.

Sec. 28A. ACTIVE PEACE OFFICERS. (a) A person who is licensed as a peace officer under Chapter 415, Government Code, and is employed full time as a peace officer by a law

enforcement agency may apply for a license under this article.
The person shall submit to the department two complete sets of
legible and classifiable fingerprints and a sworn statement of
the head of the law enforcement agency employing the applicant.
No head of a law enforcement agency may refuse to issue a
statement under this subsection. If the statement is alleged by
the applicant to be untrue, the Department shall investigate
the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) whether the applicant has been accused of misconduct
at any time during the applicant's period of employment with
the agency and the disposition of that accusation;
- (3) a description of the physical and mental condition of
the applicant;
- (4) a list of the types of weapons the applicant has
demonstrated proficiency with during the preceding year; and
- (5) a recommendation from the agency head that a license
be issued to the person under this article.

(b) The department may issue a license under this article to
an applicant under this section if the statement from the head
of the law enforcement agency employing the applicant complies
with Subsection (a) of this section and indicates that the
applicant is qualified and physically and mentally fit to
carry a handgun.

(c) An applicant under this section shall pay a fee of \$25
for a license issued under this article.

(d) A license issued under this section expires as provided
by Section 9 of this article.

ADOPTED

MAY 27 1997

Floor Amendment No. 3

Letty Ling
Secretary of the Senate

J. Patterson
By: Patterson

Amend House Bill 2909 on page 5, line 15 of the Senate Committee report by inserting a new Section 9 and renumbering the following sections as follows:

Section 9. Section 16(a), Article 4413(29ee), Revised Statutes is amended to read as follows:

(a) The director shall by rule establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use the category of handgun for which the applicant seeks certification. An applicant may not be certified unless the applicant demonstrates, at a minimum, the degree of proficiency that is required to effectively operate a ~~9-millimeter or .38-caliber~~ handgun of .32 caliber or above. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor.

ADOPTED

MAY 27 1997

Floor Amendment No. 4

Betty Ling
Secretary of the Senate

J. Patterson
By: Patterson

Amend Senate Committee report on House Bill 2909 as follows:

1. On page 9, line 5, insert a new Subsection (c)(3) as follows:

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Article 4413(29ee), Revised Statutes (concealed handgun law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.

Floor Amendment No. 5


By: Patterson

Amend House Bill 2909 on page 10, line 41 of the Committee Report by inserting a new Section 24 and renumbering the following sections as follows:

Section 24. Amend Section 46.035 of the Penal Code by inserting a new section (i) as follows:

(i) Subsections (b) (4), (b) (5), (b) (6), and (c) do not apply if the actor was not given effective notice under section 30.06 of this chapter.

ADOPTED

MAY 27 1997


Secretary of the Senate

Senate Floor Amendment No. 6

By

West Thru

Amend HB 2909 on page 8, line 67 by deleting the word "and" and inserting in lieu thereof the word "or".

ADOPTED

MAY 27 1997

Atty. Ling
Secretary of the Senate

Floor Amendment No. 7 **ADOPTED** By West

MAY 27 1997

Amend House Bill 2909 as follows:

Letty King
Secretary of the Senate

In SECTION 2 of the bill, in subsection (d)(3), insert the following after the words "licensed physician":

"whose primary practice is in the field of phychiatry"

ADOPTED *as amended*

MAY 27 1957

Butt *Long*
Secretary of the Senate

Frank R. ...

FLOOR AMENDMENT NO. 8

Amend H.B. No. 2909 as follows:

(1) In SECTION 24, in amended Section 46.15, Penal Code, (House engrossment, page ¹⁰~~25~~, lines ^{41.47}~~9-13~~), strike Subsection (a) and substitute the following:

" (a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty; or

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code."

(2) Add appropriately numbered SECTIONS to the bill to read

1 as follows and renumber existing SECTIONS accordingly:

2 SECTION __. Chapter 76, Government Code, is amended by adding
3 Section 76.0051 to read as follows:

4 Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is
5 authorized to carry a weapon while engaged in the actual discharge
6 of the officer's duties only if:

7 (1) the officer possesses a certificate of firearm
8 proficiency issued by the Commission on Law Enforcement Officer
9 Standards and Education under Section 415.038; and

10 (2) the director of the department and the judges
11 participating in the management of the department agree to the
12 authorization.

13 SECTION __. Subchapter B, Chapter 415, Government Code, is
14 amended by adding Section 415.038 to read as follows:

15 Sec. 415.038. FIREARMS PROFICIENCY: SUPERVISION OFFICERS.

16 (a) The commission and the Texas Department of Criminal Justice
17 shall adopt a memorandum of understanding that establishes their
18 respective responsibilities in developing a basic training program
19 in the use of firearms by community supervision and corrections
20 department officers and parole officers. The memorandum of
21 understanding must establish a program that provides instruction
22 in:

23 (1) legal limitations on the use of firearms and on the
24 powers and authority of officers;

25 (2) range firing and procedure, and firearms safety and
26 maintenance; and

27 (3) other topics determined by the commission and the

1 division to be necessary for the responsible use of firearms by
2 officers.

3 (b) The commission and the department by rule shall adopt the
4 memorandum of understanding establishing the basic training
5 program.

6 (c) The commission shall administer the training program and
7 shall issue a certificate of firearms proficiency to each community
8 supervision and corrections department officer or parole officer
9 the commission determines has successfully completed the program
10 described by Subsection (a).

11 (d) The commission may establish reasonable and necessary
12 fees for the administration of this section.

13 SECTION __. The Commission on Law Enforcement Officer
14 Standards and Education and the Texas Department of Criminal
15 Justice shall adopt the memorandum of understanding required by
16 Section 415.038, Government Code, as added by this Act, not later
17 than January 1, 1998.

Floor Amendment No. 8b

By: Patterson

Amend the Shapiro Amendment to House Bill 2909 on line 24 of page 1 by striking the period and inserting a new subsection (4) and a new subsection (5) as follows:

(4) a judge or justice of the Supreme Court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court, who is licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes; ~~or~~

(5) a county attorney, district attorney, criminal district attorney, assistant county attorney, assistant district attorney, or assistant criminal district attorney who is licensed to carry a concealed handgun under Article 4413(29ee), Revised Statutes.

ADOPTED

25 ayes 6 noes
MAY 27 1997

Little King
Secretary of the Senate

43

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

May 16, 1997

To: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: House Bill No. 2909, As
Engrossed
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Engrossed

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

The bill would require that the Department of Public Safety (DPS) establish procedures for reciprocal agreements with other states to honor concealed handgun permits.

The bill would also require the Texas Alcoholic Beverage Commission (TABC) to determine if certain permit and license holders derive a majority of their gross receipts from the sale of alcoholic beverages. Each business so designated would have to display a sign regarding the legality of carrying concealed handguns on its premises.

Methodology

DPS would be required to coordinate with other states regarding concealed handgun permits. In addition, DPS would need to process out-of-state applications and make programming changes to the concealed handgun database to accommodate these applications. Although there would be added responsibility, it is assumed that the new responsibility could be fulfilled with current resources.

TABC would have to make a determination on an estimated 15,000 permits with a 10 percent audit rate. The cost of this responsibility would be offset by an equal amount of fee revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
1998	(\$324,100)	\$324,100	4.0
1999	(276,100)	276,100	4.0
2000	(276,100)	276,100	4.0
2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 10, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909,
Committee Report 1st House,
Substituted
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

**Biennial Net Impact to General Revenue Funds by HB2909-Committee Report 1st House,
Substituted**

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

The bill would require that the Department of Public Safety (DPS) establish procedures for reciprocal agreements with other states to honor concealed handgun permits.

The bill would also require the Texas Alcoholic Beverage Commission (TABC) to determine if certain permit and license holders derive a majority of their gross receipts from the sale of alcoholic beverages. Each business so designated would have to display a sign regarding the legality of carrying concealed handguns on its premises.

3

Methodology

DPS would be required to coordinate with other states regarding concealed handgun permits. In addition, DPS would need to process out-of-state applications and make programming changes to the concealed handgun database to accommodate these applications. Although there would be added responsibility, it is assumed that the new responsibility could be fulfilled with current resources.

TABC would have to make a determination on an estimated 15,000 permits with a 10 percent audit rate. The cost of this responsibility would be offset by an equal amount of fee revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
1998	(\$324,100)	\$324,100	4.0
1999	(276,100)	276,100	4.0
2000	(276,100)	276,100	4.0
2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

The probable fiscal implication to General Revenue related funds during each of the first five years is estimated as follows:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

4

LBB Staff: JK, CB, RT

5

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

April 7, 1997

To: Honorable Keith Oakley, Chair
Committee on Public Safety
House
Austin, Texas

IN RE: House Bill No. 2909
By: Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Introduced

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: Agencies: 405 Department of Public Safety
304 Comptroller of Public Accounts

LBB Staff: JK, CB, RS

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LEGISLATIVE BUDGET BOARD
Criminal Justice Policy Impact Statement

May 16, 1997

TO: Honorable John Whitmire, Chair
Committee on Criminal Justice
Senate
Austin, Texas

IN RE: House Bill No. 2909, As
Engrossed
By: Carter

FROM: John Keel, Director

In response to your request for a Criminal Justice Policy Impact Statement on HB2909 (Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.



Committees:

- Public Safety
- State Affairs

State of Texas
House of Representatives
BILL G. CARTER
DISTRICT 91

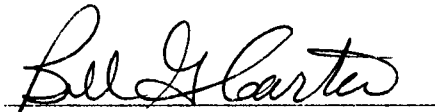
Chairman
Tarrant County Delegation

April 14, 1997

Statement of Representative Bill G. Carter regarding the vote on House Bill 2909 on April 7, 1997 in the House Committee on Public Safety.

I was presenting a bill in another committee when the vote was taken on HB 2909. Had I been present I would have voted aye.

Signed


Bill G. Carter

8

Austin Office:
P.O. Box 2910
Austin, Texas 78768-2910
512-463-0482

District Office:
3525 Denton Hwy., Ste. A
Fort Worth Texas 76117
817-595-0072

FISCAL NOTE
SENATE AMENDMENTS
HB 2909

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
75th Regular Session

May 28, 1997

To: Honorable James E. "Pete" Laney
Speaker of the House
House of Representatives
Austin, Texas

IN RE: House Bill No. 2909, As
Passed 2nd House
Carter

From: John Keel, Director

In response to your request for a Fiscal Note on HB2909 (Relating to persons eligible for a license to carry a concealed handgun; to the rights and duties of license holders, and to certain offenses involving weapons.) this office has determined the following:

Biennial Net Impact to General Revenue Funds by HB2909-As Passed 2nd House

Implementing the provisions of the bill would result in a net impact of \$0 to General Revenue Related Funds through the biennium ending August 31, 1999.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

Fiscal Analysis

The bill would require that the Department of Public Safety (DPS) establish procedures for reciprocal agreements with other states to honor concealed handgun permits.

The bill would also require the Texas Alcoholic Beverage Commission (TABC) to determine if certain permit and license holders derive a majority of their gross receipts from the sale of alcoholic beverages. Each business so designated would have to display a sign regarding the legality of carrying concealed handguns on its premises.

The bill would also amend the Penal Code and Government Code by authorizing, under specified circumstances, community supervision and corrections officers and

parole officers to carry a weapon while engaged in the discharge of duties.

Methodology

DPS would be required to coordinate with other states regarding concealed handgun permits. In addition, DPS would need to process out-of-state applications and make programming changes to the concealed handgun database to accommodate these applications. Although there would be added responsibility, it is assumed that the new responsibility could be fulfilled with current resources.

TABC would have to make a determination on an estimated 15,000 permits with a 10 percent audit rate. The cost of this responsibility would be offset by an equal amount of fee revenue.

The probable fiscal implications of implementing the provisions of the bill during each of the first five years following passage is estimated as follows:

Five Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Probable Revenue Gain/(Loss) from General Revenue Fund 0001	Change in Number of State Employees from FY 1997
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2001	(276,100)	276,100	4.0
2002	(276,100)	276,100	4.0

Net Impact on General Revenue Related Funds:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
1998	\$0
1999	0
2000	0
2001	0
2002	0

Similar annual fiscal implications would continue as long as the provisions of the bill are in effect.

No significant fiscal implication to units of local government is anticipated.

Source: Agencies:

LBB Staff: JK, CB, RT

ENROLLED

H.B. No. 2909

AN ACT

relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1(4), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(4) "Convicted" means an adjudication of guilt or an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not[+]

[+A+] the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication which has been subsequently:

(A) expunged; or

(B) pardoned under the authority of a state or federal official.[+or

[+B]--the-person-is--pardoned--for--the--offense--unless--the--pardon--is--expressly--granted--for--subsequent-proof-of-innocence-]

SECTION 2. Section 2(a), Article 4413(29ee), Revised Statutes, is amended to read as follows:

(a) A person is eligible for a license to carry a concealed handgun if the person:

1 (1) is a legal resident of this state for the
2 six-month period preceding the date of application under this
3 article or is otherwise eligible for a license under Section 35(a)
4 of this article;

5 (2) is at least 21 years of age;

6 (3) has not been convicted of a felony;

7 (4) is not charged with the commission of a Class A or
8 Class B misdemeanor or an offense under Section 42.01, Penal Code,
9 or of a felony under an information or indictment;

10 (5) is not a fugitive from justice for a felony or a
11 Class A or Class B misdemeanor;

12 (6) is not a chemically dependent person;

13 (7) is not incapable of exercising sound judgment with
14 respect to the proper use and storage of a handgun [a-person-of
15 unsound-mind];

16 (8) has not, in the five years preceding the date of
17 application, been convicted of a Class A or Class B misdemeanor or
18 an offense under Section 42.01, Penal Code;

19 (9) is fully qualified under applicable federal and
20 state law to purchase a handgun;

21 (10) has not been finally determined to be delinquent
22 in making a child support payment administered or collected by the
23 attorney general;

24 (11) has not been finally determined to be delinquent
25 in the payment of a tax or other money collected by the
26 comptroller, state treasurer, tax collector of a political
27 subdivision of the state, Texas Alcoholic Beverage Commission, or

any other agency or subdivision of the state;

(12) has not been finally determined to be in default on a loan made under Chapter 57, Education Code;

(13) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, not including a restraining order solely affecting property interests;

(14) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(15) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section 3 of this article or in a request for application submitted pursuant to Section 4 of this article.

SECTION 3. Section 2, Article 4413(29ee), Revised Statutes, is amended by adding Subsection (d) to read as follows:

(d)(1) For purposes of Subsection (a)(7) of this section, a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if:

(A) the person has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(B) the person suffers from a psychiatric disorder or condition described by Paragraph (A) of this subdivision that:

1 (i) is in remission but is reasonably
2 likely to redevelop at a future time; or

3 (ii) requires continuous medical treatment
4 to avoid redevelopment;

5 (C) the person has been diagnosed by a licensed
6 physician or declared by a court to be incompetent to manage the
7 person's own affairs; or

8 (D) the person has entered in any criminal
9 proceeding a plea of not guilty by reason of insanity.

10 (2) The following are evidence that a person has a
11 psychiatric disorder or condition described by Subdivision (1)(A)
12 of this subsection:

13 (A) involuntary psychiatric hospitalization in
14 the preceding five-year period;

15 (B) psychiatric hospitalization in the preceding
16 two-year period;

17 (C) inpatient or residential substance abuse
18 treatment in the preceding five-year period;

19 (D) diagnosis in the preceding five-year period
20 by a licensed physician that the person is dependent on alcohol, a
21 controlled substance, or a similar substance; or

22 (E) diagnosis at any time by a licensed
23 physician that the person suffers or has suffered from a
24 psychiatric disorder or condition consisting of or relating to:

25 (i) schizophrenia or delusional disorder;

26 (ii) bipolar disorder;

27 (iii) chronic dementia, whether caused by

1 illness, brain defect, or brain injury;

2 (iv) dissociative identity disorder;

3 (v) intermittent explosive disorder; or

4 (vi) antisocial personality disorder.

5 (3) Notwithstanding Subdivision (1), a person who has
6 previously been diagnosed as suffering from a psychiatric disorder
7 or condition described by Subdivision (1) or listed in Subdivision
8 (2) is not because of that disorder or condition incapable of
9 exercising sound judgment with respect to the proper use and
10 storage of a handgun if the person provides the department with a
11 certificate from a licensed physician whose primary practice is in
12 the field of psychiatry stating that the psychiatric disorder or
13 condition is in remission and is not reasonably likely to develop
14 at a future time.

15 SECTION 4. Section 3(a), Article 4413(29ee), Revised
16 Statutes, is amended to read as follows:

17 (a) An applicant for a license to carry a concealed handgun
18 must submit to the director's designee described by Section 5 of
19 this article:

20 (1) a completed application on a form provided by the
21 department that requires only the information listed in Subsection
22 (b) of this section;

23 (2) two recent color passport photographs of the
24 applicant;

25 (3) a certified copy of the applicant's birth
26 certificate or certified proof of age;

27 (4) proof of residency in this state;

1 (5) two complete sets of legible and classifiable
2 fingerprints of the applicant taken by a person [~~employed-by-a-law~~
3 ~~enforcement-agency--who--is~~] appropriately trained in recording
4 fingerprints who is employed by a law enforcement agency or by a
5 private entity designated by a law enforcement agency as an entity
6 qualified to take fingerprints of an applicant for a license under
7 this article;

8 (6) a nonrefundable application and license fee of
9 \$140 paid to the department;

10 (7) a handgun proficiency certificate described by
11 Section 17 of this article;

12 (8) an affidavit signed by the applicant stating that
13 the applicant:

14 (A) has read and understands each provision of
15 this article that creates an offense under the laws of this state
16 and each provision of the laws of this state related to use of
17 deadly force; and

18 (B) fulfills all the eligibility requirements
19 listed under Section 2 of this article; and

20 (9) a form executed by the applicant that authorizes
21 the director to make an inquiry into any noncriminal history
22 records that are necessary to determine the applicant's eligibility
23 for a license under Section 2(a) of this article.

24 SECTION 5. Section 5(b), Article 4413(29ee), Revised
25 Statutes, is amended to read as follows:

26 (b) The director's designee as needed shall conduct an
27 additional criminal history record check of the applicant and an

1 investigation of the applicant's local official records to verify
 2 the accuracy of the application materials. The scope of the record
 3 check and the investigation are at the sole discretion of the
 4 department, except that the director's designee shall complete the
 5 record check and investigation not later than 60 days after the
 6 date the department receives the application materials. The
 7 department shall send a fingerprint card to the Federal Bureau of
 8 Investigation for a national criminal history check of the
 9 applicant. On completion of the investigation, the director's
 10 designee shall return all materials and the result of the
 11 investigation to the appropriate division of the department at its
 12 Austin headquarters. The director's designee may submit to the
 13 appropriate division of the department, at the department's Austin
 14 headquarters, along with the application materials a written
 15 recommendation for disapproval of the application, accompanied by
 16 an affidavit stating personal knowledge or naming persons with
 17 personal knowledge of a ground for denial under Section 2 of this
 18 article. The director's designee in the appropriate geographical
 19 area may also submit the application and the recommendation that
 20 the license be issued. On receipt at the department's Austin
 21 headquarters of the application materials and the result of the
 22 investigation by the director's designee, the department shall
 23 conduct any further record check or investigation the department
 24 determines is necessary in the event that a question exists with
 25 respect to the accuracy of the application materials or the
 26 eligibility of the applicant, except that the department shall
 27 complete the record check and investigation not later than 180 days

1 after the date the department receives the application materials
2 from the applicant.

3 SECTION 6. Section 6(b), Article 4413(29ee), Revised
4 Statutes, is amended to read as follows:

5 (b)[+] Not [~~After--January--17--1997,--the--department,--not~~]
6 later than the 60th day after the date of the receipt by the
7 director's designee of the completed application materials, the
8 department shall:

9 (1) [~~A~~] issue the license; [~~or~~]

10 (2) [~~B~~] notify the applicant in writing that the
11 application was denied:

12 (A) [+] on the grounds that the applicant
13 failed to qualify under the criteria listed in Section 2 of this
14 article;

15 (B) [~~++~~] based on the affidavit of the
16 director's designee submitted to the department under Section 5(b)
17 of this article; or

18 (C) [~~+++~~] based on the affidavit of the
19 qualified handgun instructor submitted to the department under
20 Section 17(c) of this article; or

21 (3) notify the applicant in writing that the
22 department is unable to make a determination regarding the issuance
23 or denial of a license to the applicant within the 60-day period
24 prescribed by this subsection and include in that notification an
25 explanation of the reason for the inability and an estimation of
26 the amount of time the department will need to make the
27 determination.

1 ~~[(2)--Between--the--effective--date--of--this--article--and~~
2 ~~December--31--1996--the--department--shall--perform--the--duties--set--out~~
3 ~~in--this--subsection--not--later--than--the--90th--day--after--the--date--of~~
4 ~~the--receipt--by--the--director's--designee--of--the--completed--application~~
5 ~~materials--]~~

6 SECTION 7. Sections 6(g), (h), and (i), Article 4413(29ee),
7 Revised Statutes, are amended and relettered to read as follows:

8 (g) ~~[On--a--demand--by--a--magistrate--or--a--peace--officer--that--a~~
9 ~~license--holder--display--the--license--holder's--handgun--license--the~~
10 ~~license--holder--shall--display--both--the--license--and--the--license~~
11 ~~holder's--driver's--license--or--identification--certificate--issued--by~~
12 ~~the--department--]~~

13 ~~[(h)]~~ If a license holder is carrying a handgun on or about
14 the license holder's person when a magistrate or a peace officer
15 demands that the license holder display identification, the license
16 holder shall display both the license holder's driver's license or
17 identification certificate issued by the department and the license
18 holder's handgun license. A person who fails or refuses to display
19 the license and identification as required by this subsection is
20 subject to suspension of the person's license as provided by
21 Section 13 of this article.

22 (h) ~~[(i)]~~ A person commits an offense if the person fails or
23 refuses to display the license and identification as required by
24 Subsection (g) ~~[or--(h)]~~ of this section after previously having had
25 the person's license suspended for a violation of that subsection.
26 An offense under this subsection is a Class B misdemeanor.

27 SECTION 8. Section 12(a), Article 4413(29ee), Revised

Statutes, is amended to read as follows:

(a) A license may be revoked under this section if the license holder:

(1) was not entitled to the license at the time it was issued;

(2) gave false information on the application;

(3) subsequently becomes ineligible for a license under Section 2 of this article, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or an offense under Section 42.01, Penal Code, or of a felony under an information or indictment; [or]

(4) is convicted of an offense under Section 46.035, Penal Code; or

(5) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 13(a) of this article after the person's license has been previously suspended twice for the same reason.

SECTION 9. Sections 13(a) and (c), Article 4413(29ee), Revised Statutes, are amended to read as follows:

(a) A license may be suspended under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or an offense [convicted-of-disorderly-conduct punishable-as-a-Class-C-misdemeanor] under Section 42.01, Penal Code, or of a felony under an information or indictment;

(2) fails to display a license as required by Section

6 of this article;

(3) fails to notify the department of a change of address or name as required by Section 8 of this article;

(4) carries a concealed handgun under the authority of this article of a different category than the license holder is licensed to carry; or

(5) ~~[has--been--charged---by---indictment---with---the commission--of--an--offense--that--would--make--the--license-holder ineligible-for-a-license-on-conviction;-or~~

~~[(6)]~~ fails to return a previously issued license after a license is modified as required by Section 10(d) of this article.

(c) A license may be suspended under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(3), (4), or (5) of this section, except as provided by Subdivision (3) of this subsection;

(2) for 90 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2) of this section, except as provided by Subdivision (3) of this subsection;

(3) for not less than one year and not more than three years if the person's license is subject to suspension for a reason listed in Subsection (a) of this section, other than the reason listed in Subsection (a)(1) of this section, and the person's license has been previously suspended for the same reason; or

(4) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in

1 Subsection (a)(1) of this section.

2 SECTION 10. Section 16(a), Article 4413(29ee), Revised
3 Statutes, is amended to read as follows:

4 (a) The director shall by rule establish minimum standards
5 for handgun proficiency and shall develop a course to teach handgun
6 proficiency and examinations to measure handgun proficiency. The
7 course to teach handgun proficiency must contain training sessions
8 divided into two parts. One part of the course must be classroom
9 instruction and the other part must be range instruction and an
10 actual demonstration by the applicant of the applicant's ability to
11 safely and proficiently use the category of handgun for which the
12 applicant seeks certification. An applicant may not be certified
13 unless the applicant demonstrates, at a minimum, the degree of
14 proficiency that is required to effectively operate a [~~9-millimeter~~
15 ~~or---.38-caliber~~] handgun of .32 caliber or above. The department
16 shall distribute the standards, course requirements, and
17 examinations on request to any qualified handgun instructor.

18 SECTION 11. Section 17(c), Article 4413(29ee), Revised
19 Statutes, is amended to read as follows:

20 (c) A qualified handgun instructor may submit to the
21 department a written recommendation for disapproval of the
22 application for a license, renewal, or modification of a license,
23 accompanied by an affidavit stating personal knowledge or naming
24 persons with personal knowledge of facts that lead the instructor
25 to believe that an applicant is not qualified for handgun
26 proficiency certification. The department may use a written
27 recommendation submitted under this subsection as the basis for

1 denial of a license only if the department determines that the
 2 recommendation is made in good faith and is supported by a
 3 preponderance of the evidence. The department shall make a
 4 determination under this subsection not later than the 45th day
 5 after the date the department receives the written recommendation.
 6 The 60-day period in which the department must take action under
 7 Section 6(b) of this article is extended one day for each day a
 8 determination is pending under this subsection.

9 SECTION 12. Sections 18(c) and (f), Article 4413(29ee),
 10 Revised Statutes, are amended to read as follows:

11 (c) The department shall provide training to an individual
 12 who applies for certification as a qualified handgun instructor.
 13 An applicant shall pay a fee of \$100 to the department for the
 14 training. An applicant must take and successfully complete the
 15 training offered by the department and pay the training fee before
 16 the department may certify the applicant as a qualified handgun
 17 instructor. The department shall issue [~~waive--the--requirements~~
 18 ~~regarding--a--handgun-proficiency-certification-under-Section-17-of~~
 19 ~~this-article-for-an-applicant-for~~] a license to carry a concealed
 20 handgun under the authority of this article to any person who is
 21 certified as a qualified handgun instructor and who pays to the
 22 department a fee of \$100 in addition to [~~takes-and-successfully~~
 23 ~~completes-training-under-this-subsection--and--pays~~] the training
 24 fee. The department by rule may prorate or waive the training fee
 25 for an employee of another governmental entity.

26 (f) If the department determines that a reason exists to
 27 revoke, suspend, or deny a license to carry a concealed handgun

1 with respect to a person who is a qualified handgun instructor or
2 an applicant for certification as a qualified handgun instructor,
3 the department shall take that action against the person's license
4 to carry a concealed handgun, if the person is an applicant for or
5 the holder of such a license, and the person's certification as a
6 qualified handgun instructor [regardless-of-whether-the-person-has
7 a-license-issued-under-this-article-to-carry-a-concealed-handgun].

8 SECTION 13. Article 4413(29ee), Revised Statutes, is amended
9 by amending Section 28 and adding Section 28A to read as follows:

10 Sec. 28. HONORABLY RETIRED PEACE OFFICERS. (a) A person
11 who is licensed as a peace officer under Chapter 415, Government
12 Code, and who has been employed full-time as a peace officer by a
13 law enforcement agency may apply for a license under this article
14 on retirement. The application must be made not later than the
15 first anniversary after the date of retirement.

16 (b) The person shall submit two complete sets of legible and
17 classifiable fingerprints and a sworn statement from the head of
18 the law enforcement agency employing the applicant. No head of a
19 law enforcement agency may refuse to issue a statement under this
20 subsection. If the statement is alleged by the applicant to be
21 untrue, the department shall investigate the validity of the
22 statement. The statement shall include:

- 23 (1) the name and rank of the applicant;
24 (2) the status of the applicant before retirement;
25 (3) whether or not the applicant was accused of
26 misconduct at the time of the retirement;
27 (4) the physical and mental condition of the

1 applicant;

2 (5) the type of weapons the applicant had demonstrated
3 proficiency with during the last year of employment;

4 (6) whether the applicant would be eligible for
5 reemployment with the agency, and if not, the reasons the applicant
6 is not eligible; and

7 (7) a recommendation from the agency head regarding
8 the issuance of a license under this article.

9 (c) The department may issue a license under this article to
10 an applicant under this section if the applicant is honorably
11 retired and physically and emotionally fit to possess a handgun.
12 In this subsection, "honorably retired" means the applicant:

13 (1) did not retire in lieu of any disciplinary action;

14 (2) was employed as a full-time peace officer for not
15 less than 10 years by one agency; and

16 (3) is entitled to receive a pension or annuity for
17 service as a law enforcement officer.

18 (d) An applicant under this section shall pay a fee of \$25
19 for a license issued under this article.

20 (e) A retired peace officer who obtains a license under this
21 article must maintain, for the category of weapon licensed, the
22 proficiency required for a peace officer under Section 415.035,
23 Government Code. The department or a local law enforcement agency
24 shall allow a retired peace officer of the department or agency an
25 opportunity to annually demonstrate the required proficiency. The
26 proficiency shall be reported to the department on application and
27 renewal.

1 (f) A license issued under this section expires as provided
2 by Section 9 of this article.

3 (g) A retired officer [~~criminal-investigator~~] of the United
4 States who was eligible to carry a firearm in the discharge of his
5 official duties [~~is-designated-as-a-"special-agent"~~] is eligible
6 for a license under this section. An applicant described by this
7 subsection may submit the application at any time after retirement.
8 The applicant shall submit with the application proper proof of
9 retired status by presenting the following documents prepared by
10 the agency from which the applicant retired:

11 (1) retirement credentials; and

12 (2) a letter from the agency head stating the
13 applicant retired in good standing.

14 Sec. 28A. ACTIVE PEACE OFFICERS. (a) A person who is
15 licensed as a peace officer under Chapter 415, Government Code, and
16 is employed full-time as a peace officer by a law enforcement
17 agency may apply for a license under this article. The person
18 shall submit to the department two complete sets of legible and
19 classifiable fingerprints and a sworn statement of the head of the
20 law enforcement agency employing the applicant. No head of a law
21 enforcement agency may refuse to issue a statement under this
22 subsection. If the statement is alleged by the applicant to be
23 untrue, the department shall investigate the validity of the
24 statement. The statement must include:

25 (1) the name and rank of the applicant;

26 (2) whether the applicant has been accused of
27 misconduct at any time during the applicant's period of employment

1 with the agency and the disposition of that accusation;

2 (3) a description of the physical and mental condition
3 of the applicant;

4 (4) a list of the types of weapons the applicant has
5 demonstrated proficiency with during the preceding year; and

6 (5) a recommendation from the agency head that a
7 license be issued to the person under this article.

8 (b) The department may issue a license under this article to
9 an applicant under this section if the statement from the head of
10 the law enforcement agency employing the applicant complies with
11 Subsection (a) of this section and indicates that the applicant is
12 qualified and physically and mentally fit to carry a handgun.

13 (c) An applicant under this section shall pay a fee of \$25
14 for a license issued under this article.

15 (d) A license issued under this section expires as provided
16 by Section 9 of this article.

17 SECTION 14. Section 31, Article 4413(29ee), Revised
18 Statutes, is amended by amending Subsections (a) and (c) and adding
19 Subsections (d) and (e) to read as follows:

20 (a) A business that has a permit or license issued under
21 Chapter 25, 28, 32, [or] 69, or 74, Alcoholic Beverage Code, and
22 that derives 51 percent or more of its income from the sale of
23 alcoholic beverages for on-premises consumption as determined by
24 the Texas Alcoholic Beverage Commission under Section 104.06,
25 Alcoholic Beverage Code, shall prominently display at each entrance
26 to the business premises a sign that complies with the requirements
27 of Subsection (c) of this section.

1 (c) The sign required under Subsections (a) and (b) of this
2 section must give notice in both English and Spanish that it is
3 unlawful for a person licensed under this article to carry a
4 handgun on the premises. The sign must appear in contrasting
5 colors with block letters at least one inch in height and must
6 include on its face the number "51" printed in solid red at least
7 five inches in height. The sign shall be displayed in a
8 conspicuous manner clearly visible to the public.

9 (d) A business that has a permit or license issued under the
10 Alcoholic Beverage Code and that is not required to display a sign
11 under this section may be required to display a sign under Section
12 11.041 or Section 61.11, Alcoholic Beverage Code.

13 (e) This section does not apply to a business that has a
14 food and beverage certificate issued under the Alcoholic Beverage
15 Code.

16 SECTION 15. Section 35, Article 4413(29ee), Revised
17 Statutes, is amended to read as follows:

18 Sec. 35. NONRESIDENT [RECIPECAL] LICENSE. (a) The
19 department by rule shall establish a procedure for a person who is
20 a legal resident of a state that does not provide for the issuance
21 of a license to carry a concealed handgun and who meets the
22 eligibility requirements of this article other than the residency
23 requirement established by Section 2(a)(1) of this article to
24 obtain a license under this article. The procedure shall include
25 payment of a fee in an amount sufficient to recover the average
26 cost to the department of obtaining a criminal history record check
27 and investigation on a nonresident applicant.

1 **(b) The department shall negotiate an agreement with any**
2 **other state that provides for the issuance of a license to carry a**
3 **concealed handgun under which a license issued by the other state**
4 **is recognized in this state** [~~On-application-by-a-person-who--has--a~~
5 ~~valid-license-to-carry-a-concealed-handgun-issued-by-another-state,~~
6 ~~the-department-may-issue-to-the-person-a-license-under-this-article~~
7 ~~without--requiring-that-the-person-meet-eligibility-requirements-or~~
8 ~~pay-fees-otherwise-imposed-under-this-article,~~~~--but--only~~] if the
9 department determines that:

10 (1) the eligibility requirements imposed by the other
11 state include background check requirements that meet or exceed
12 background check [~~are--at--least-as-rigorous-as-the~~] requirements
13 imposed by federal law as a condition of receiving a handgun [~~this~~
14 ~~article~~]; and

15 (2) the other state recognizes [~~provides-reciprocal~~
16 ~~licensing-privileges-to-a-person-who-holds~~] a license issued in
17 [~~under~~] this [~~article--and--applies--for--a-license-in-the-other~~]
18 state.

19 SECTION 16. Chapter 11, Alcoholic Beverage Code, is amended
20 by adding Section 11.041 to read as follows:

21 Sec. 11.041. WARNING SIGN REQUIRED. (a) Each holder of a
22 permit who is not otherwise required to display a sign under
23 Section 31, Article 4413(29ee), Revised Statutes, shall display in
24 a prominent place on the permit holder's premises a sign giving
25 notice that it is unlawful for a person to carry a weapon on the
26 premises unless the weapon is a concealed handgun of the same
27 category the person is licensed to carry under Article 4413(29ee),

1 Revised Statutes.

2 (b) The sign must be at least 6 inches high and 14 inches
3 wide, must appear in contrasting colors, and shall be displayed in
4 a conspicuous manner clearly visible to the public. The commission
5 or administrator may require the permit holder to also display the
6 sign in a language other than English if it can be observed or
7 determined that a substantial portion of the expected customers
8 speak the other language as their familiar language.

9 SECTION 17. Section 11.61(e), Alcoholic Beverage Code, is
10 amended to read as follows:

11 (e) Except as provided by Subsection (f), the commission or
12 administrator shall cancel an original or renewal permit if it is
13 found, after notice and hearing, that the permittee knowingly
14 allowed a person to possess a firearm in a building on the licensed
15 premises. This subsection does not apply to a person:

16 (1) who holds a security officer commission issued by
17 the Texas Board of Private Investigators and Private Security
18 Agencies, if:

19 (A) the person is engaged in the performance of
20 the person's duties as a security officer;

21 (B) the person is wearing a distinctive uniform;
22 and

23 (C) the weapon is in plain view;

24 (2) who is a peace officer; [or]

25 (3) who is a permittee or an employee of a permittee
26 if the person is supervising the operation of the premises; or

27 (4) who possesses a concealed handgun of the same

1 category the person is licensed to carry under Article 4413(29ee),
2 Revised Statutes, unless the person is on the premises of a
3 business described by Section 46.035(b)(1), Penal Code.

4 SECTION 18. Section 61.11, Alcoholic Beverage Code, is
5 amended to read as follows:

6 Sec. 61.11. WARNING SIGN REQUIRED. (a) Each holder of a
7 license who is not otherwise required to display a sign under
8 Section 31, Article 4413(29ee), Revised Statutes, shall display in
9 a prominent place on the license holder's [his] premises a sign
10 giving notice that it is unlawful for a person to carry a weapon on
11 the premises unless the weapon is a concealed handgun of the same
12 category the person is licensed to carry under Article 4413(29ee),
13 Revised Statutes.

14 (b) The sign must be [7] at least 6 inches high and 14
15 inches wide, must appear in contrasting colors, and shall be
16 displayed in a conspicuous manner clearly visible to the public
17 [stating:---FELONY:---STATE-LAW-PRESCRIBES-A-MAXIMUM-PENALTY-OF-TEN
18 YEARS--IMPRISONMENT-AND-A-FINE-NOT-TO-EXCEED--\$5,000--FOR--CARRYING
19 WEAPONS--WHERE--ALCOHOLIC-BEVERAGES-ARE-SOLD,--SERVED,--OR-CONSUMED].

20 The commission or administrator may require the holder of the
21 license to also display the sign in a language other than English
22 if it can be observed or determined that a substantial portion of
23 the expected customers speak the other language as their familiar
24 language.

25 [(b)--A--licensee--who--violates--this--section--commits--a
26 misdemeanor-punishable-by-a-fine-of-not-more-than-\$25.]

27 SECTION 19. Section 61.71(f), Alcoholic Beverage Code, is

amended to read as follows:

(f) Except as provided by Subsection (g), the commission or administrator shall cancel an original or renewal dealer's on-premises or off-premises license if it is found, after notice and hearing, that the licensee knowingly allowed a person to possess a firearm in a building on the licensed premises. This subsection does not apply to a person:

(1) who holds a security officer commission issued by the Texas Board of Private Investigators and Private Security Agencies, if:

(A) the person is engaged in the performance of the person's duties as a security officer;

(B) the person is wearing a distinctive uniform;
and

(C) the weapon is in plain view;

(2) who is a peace officer; [or]

(3) who is a licensee or an employee of a licensee if the person is supervising the operation of the premises; or

(4) who possesses a concealed handgun of the same category the person is licensed to carry under Article 4413(29ee), Revised Statutes, unless the person is on the premises of a business described by Section 46.035(b)(1), Penal Code.

SECTION 20. Chapter 104, Alcoholic Beverage Code, is amended by adding Section 104.06 to read as follows:

Sec. 104.06. MONITORING OF GROSS RECEIPTS. (a) On the issuance and renewal of a license or permit that allows on-premises consumption of any alcoholic beverage the commission shall

1 determine whether the holder receives, or for the issuance of a
2 license or permit is to receive, 51 percent or more of the gross
3 receipts of the premises for which the license or permit is issued
4 from the holder's sale or service of alcoholic beverages for
5 on-premises consumption.

6 (b) The commission shall:

7 (1) adopt rules for making a determination under
8 Subsection (a); and

9 (2) require a holder of a license or permit to provide
10 any information or document that the commission needs to make a
11 determination.

12 (c) If the commission makes a determination under Subsection
13 (a) that a holder of a license or permit receives 51 percent or
14 more of the gross receipts of the premises from the sale or service
15 of alcoholic beverages, the holder shall comply with the
16 requirements of Section 31, Article 4413(29ee), Revised Statutes,
17 and shall continue to comply with those requirements until the
18 commission determines that the holder receives less than 51 percent
19 of the gross receipts of the premises from the sale or service of
20 alcoholic beverages for on-premises consumption.

21 SECTION 21. Section 12.092(b), Health and Safety Code, as
22 added by Chapter 165, Acts of the 74th Legislature, Regular
23 Session, 1995, is amended to read as follows:

24 (b) The medical advisory board shall assist the Department
25 of Public Safety of the State of Texas in determining whether:

26 (1) an applicant for a driver's license or a license
27 holder is capable of safely operating a motor vehicle; or

1 (2) an applicant for or holder of a license to carry a
2 concealed handgun under the authority of Article 4413(29ee),
3 Revised Statutes, is capable of exercising sound judgment with
4 respect to the proper use and storage of a handgun.

5 SECTION 22. Sections 12.095(a), (c), and (d), Health and
6 Safety Code, as added by Chapter 165, Acts of the 74th Legislature,
7 Regular Session, 1995, are amended to read as follows:

8 (a) If the Department of Public Safety of the State of Texas
9 requests an opinion or recommendation from the medical advisory
10 board as to the ability of an applicant or license holder to
11 operate a motor vehicle safely or to exercise sound judgment with
12 respect to the proper use and storage of a handgun, the
13 commissioner or a person designated by the commissioner shall
14 convene a panel to consider the case or question submitted by that
15 department.

16 (c) Each panel member shall prepare an individual
17 independent written report for the Department of Public Safety of
18 the State of Texas that states the member's opinion as to the
19 ability of the applicant or license holder to operate a motor
20 vehicle safely or to exercise sound judgment with respect to the
21 proper use and storage of a handgun, as appropriate. In the report
22 the panel member may also make recommendations relating to that
23 department's subsequent action.

24 (d) In its deliberations, a panel may examine any medical
25 record or report that contains material that may be relevant to the
26 ability of the applicant or license holder [~~to-operate-a-motor~~
27 ~~vehicle-safely~~].

SECTION 23. Chapter 30, Penal Code, is amended by adding Section 30.06 to read as follows:

Sec. 30.06. TRESPASS BY HOLDER OF LICENSE TO CARRY CONCEALED HANDGUN. (a) A license holder commits an offense if the license holder:

(1) carries a handgun under the authority of Article 4413(29ee), Revised Statutes, on property of another without effective consent; and

(2) received notice that:

(A) entry on the property by a license holder with a concealed handgun was forbidden; or

(B) remaining on the property with a concealed handgun was forbidden and failed to depart.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Article 4413(29ee), Revised

1 Statutes (concealed handgun law), may not enter this property with
2 a concealed handgun"; or

3 (B) a sign posted on the property that:

4 (i) includes the language described by
5 Paragraph (A) in both English and Spanish;

6 (ii) appears in contrasting colors with
7 block letters at least one inch in height; and

8 (iii) is displayed in a conspicuous manner
9 clearly visible to the public.

10 (d) An offense under this section is a Class A misdemeanor.

11 SECTION 24. Section 46.02, Penal Code, is amended to read as
12 follows:

13 Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person
14 commits an offense if he intentionally, knowingly, or recklessly
15 carries on or about his person a handgun, illegal knife, or club.

16 (b) ~~[It is a defense to prosecution under this section--that~~
17 ~~the actor was, at the time of the commission of the offense:~~

18 ~~[(1)--in the actual discharge of his official duties as~~
19 ~~a member of the armed forces or state military forces as defined by~~
20 ~~Section 431.001, Government Code, or as a guard employed by a penal~~
21 ~~institution;~~

22 ~~[(2)--on his own premises or premises under his control~~
23 ~~unless--he is an employee or agent of the owner of the premises and~~
24 ~~his primary responsibility is to act in the capacity of a--security~~
25 ~~guard to protect persons or property, in which event he must comply~~
26 ~~with Subdivision (5);~~

27 ~~[(3)--traveling;~~

1 [(4)--engaging--in--lawful--hunting,--fishing,--or--other
2 sporting-activity-on-the-immediate-premises-where-the--activity--is
3 conducted,--or--was--directly-en-route-between-the-premises-and-the
4 actor's-residence,--if-the-weapon-is-a-type--commonly--used--in--the
5 activity;

6 [(5)--a--person-who-holds-a-security-officer-commission
7 issued-by-the-Texas-Board--of--Private--Investigators--and--Private
8 Security-Agencies,--if:

9 [(A)--he--is--engaged--in--the-performance-of-his
10 duties-as-a-security-officer-or-traveling-to-and-from-his-place--of
11 assignment;

12 [(B)--he-is-wearing-a-distinctive-uniform,--and

13 [(C)--the-weapon-is-in-plain-view,--or

14 [(7)--carrying--a-concealed-handgun-and-a-valid-license
15 issued-under-Article--4413(29ee),--Revised--Statutes,--to--carry--a
16 concealed-handgun-of-the-same-category-as-the-handgun-the-person-is
17 carrying.

18 [(7)--a--person-who-holds-a-security-officer-commission
19 and-a-personal-protection-authorization-issued-by-the--Texas--Board
20 of--Private--Investigators-and-Private-Security-Agencies-and-who-is
21 providing-personal-protection-under-the-Private--Investigators--and
22 Private--Security--Agencies-Act-(Article-4413(29bb),--Vernon's-Texas
23 Civil-Statutes);

24 [(7)--a-holder--of--an--alcoholic--beverage--permit--or
25 license--or-an-employee-of-a-holder-of-an-alcoholic-beverage-permit
26 or-license-if--the--actor--is--supervising--the--operation--of--the
27 permitted-or-licensed-premises.

[~~(e)~~]~~--It--is--a-defense-to-prosecution-under-this-section-for~~
~~the-offense-of-carrying-a-club-that-the-actor-was,at-the--time--of~~
~~the--commission-of-the-offense,a-noncommissioned-security-guard-at~~
~~an-institution-of-higher-education--who--carried--a--nightstick--or~~
~~similar--club,--and--who--had-undergone-15-hours-of-training-in-the~~
~~proper-use-of-the-club,including-at-least-seven-hours-of--training~~
~~in--the-use-of-the-club-for-nonviolent-restraint.--For-the-purposes~~
~~of-this-section,"nonviolent-restraint"means-the-use-of-reasonable~~
~~force,not-intended-and-not-likely-to-inflict-bodily-injury.~~

[~~(d)~~]~~--It-is-a-defense-to-prosecution-under-this--section--for~~
~~the-offense-of-carrying-a-firearm-or-carrying-a-club-that-the-actor~~
~~was,--at--the--time--of--the--commission--of--the-offense,a-public~~
~~security-officer-employed-by-the--adjutant--general--under--Section~~
~~431-029,--Government--Code,--and--was-performing-official-duties-or~~
~~traveling-to-or-from-a-place-of-duty.~~

[~~(e)~~] Except as provided by Subsection (c) [~~(f)~~], an offense under this section is a Class A misdemeanor.

(c) [~~(f)~~] An offense under this section is a felony of the third degree if the offense is committed on any premises licensed or issued a permit by this state for the sale of alcoholic beverages.

SECTION 25. Sections 46.03(b) and (c), Penal Code, are amended to read as follows:

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a [~~peace-officer-or--a~~] member of the armed forces or national guard or a guard employed by a

penal institution, or an officer of the court.

(c) In this section:

(1) "Premises" has the meaning assigned by Section 46.035.

(2) "Secured [~~"secured~~] area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law.

SECTION 26. Section 46.035(b), Penal Code, is amended to read as follows:

(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Article 4413(29ee), Revised Statutes, regardless of whether the handgun is concealed, on or about the license holder's person:

(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, [~~er~~] 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;

(3) on the premises of a correctional facility;

(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a

nursing home licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing home administration, as appropriate;

(5) in an amusement park; or

(6) on the premises of a church, synagogue, or other established place of religious worship.

SECTION 27. Section 46.035, Penal Code, is amended by adding Subsection (i) to read as follows:

(i) Subsections (b)(4), (b)(5), (b)(6), and (c) do not apply if the actor was not given effective notice under Section 30.06.

SECTION 28. Section 46.15, Penal Code, is amended to read as follows:

Sec. 46.15. NONAPPLICABILITY [~~TO~~-----PEACE-----OFFICERS].

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government

1 Code, and neither section prohibits an officer from carrying a
2 weapon in this state if the officer is:

3 (A) engaged in the actual discharge of the
4 officer's duties while carrying the weapon; and

5 (B) authorized to carry a weapon under Section
6 76.0051, Government Code; or

7 (4) a judge or justice of the supreme court, the court
8 of criminal appeals, a court of appeals, a district court, a
9 criminal district court, a constitutional county court, a statutory
10 county court, a justice court, or a municipal court who is licensed
11 to carry a concealed handgun under Article 4413(29ee), Revised
12 Statutes.

13 (b) Section 46.02 does not apply to a person who:

14 (1) is in the actual discharge of official duties as a
15 member of the armed forces or state military forces as defined by
16 Section 431.001, Government Code, or as a guard employed by a penal
17 institution;

18 (2) is on the person's own premises or premises under
19 the person's control unless the person is an employee or agent of
20 the owner of the premises and the person's primary responsibility
21 is to act in the capacity of a security guard to protect persons or
22 property, in which event the person must comply with Subdivision
23 (5);

24 (3) is traveling;

25 (4) is engaging in lawful hunting, fishing, or other
26 sporting activity on the immediate premises where the activity is
27 conducted, or is directly en route between the premises and the

1 actor's residence, if the weapon is a type commonly used in the
2 activity;

3 (5) holds a security officer commission issued by the
4 Texas Board of Private Investigators and Private Security Agencies,
5 if:

6 (A) the person is engaged in the performance of
7 the person's duties as a security officer or traveling to and from
8 the person's place of assignment;

9 (B) the person is wearing a distinctive uniform;
10 and

11 (C) the weapon is in plain view;

12 (6) is carrying a concealed handgun and a valid
13 license issued under Article 4413(29ee), Revised Statutes, to carry
14 a concealed handgun of the same category as the handgun the person
15 is carrying;

16 (7) holds a security officer commission and a personal
17 protection authorization issued by the Texas Board of Private
18 Investigators and Private Security Agencies and who is providing
19 personal protection under the Private Investigators and Private
20 Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil
21 Statutes); or

22 (8) holds an alcoholic beverage permit or license or
23 is an employee of a holder of an alcoholic beverage permit or
24 license if the person is supervising the operation of the permitted
25 or licensed premises.

26 (c) The provision of Section 46.02 prohibiting the carrying
27 of a club does not apply to a noncommissioned security guard at an

1 institution of higher education who carries a nightstick or similar
2 club, and who has undergone 15 hours of training in the proper use
3 of the club, including at least seven hours of training in the use
4 of the club for nonviolent restraint. For the purposes of this
5 subsection, "nonviolent restraint" means the use of reasonable
6 force, not intended and not likely to inflict bodily injury.

7 (d) The provisions of Section 46.02 prohibiting the carrying
8 of a firearm or carrying of a club do not apply to a public
9 security officer employed by the adjutant general under Section
10 431.029, Government Code, in performance of official duties or
11 while traveling to or from a place of duty.

12 SECTION 29. Chapter 76, Government Code, is amended by
13 adding Section 76.0051 to read as follows:

14 Sec. 76.0051. AUTHORIZATION TO CARRY WEAPON. An officer is
15 authorized to carry a weapon while engaged in the actual discharge
16 of the officer's duties only if:

17 (1) the officer possesses a certificate of firearms
18 proficiency issued by the Commission on Law Enforcement Officer
19 Standards and Education under Section 415.038; and

20 (2) the director of the department and the judges
21 participating in the management of the department agree to the
22 authorization.

23 SECTION 30. Subchapter B, Chapter 415, Government Code, is
24 amended by adding Section 415.038 to read as follows:

25 Sec. 415.038. FIREARMS PROFICIENCY; SUPERVISION OFFICERS.

26 (a) The commission and the Texas Department of Criminal Justice
27 shall adopt a memorandum of understanding that establishes their

1 respective responsibilities in developing a basic training program
2 in the use of firearms by community supervision and corrections
3 department officers and parole officers. The memorandum of
4 understanding must establish a program that provides instruction
5 in:

6 (1) legal limitations on the use of firearms and on
7 the powers and authority of officers;

8 (2) range firing and procedure and firearms safety and
9 maintenance; and

10 (3) other topics determined by the commission and the
11 department to be necessary for the responsible use of firearms by
12 officers.

13 (b) The commission and the department by rule shall adopt
14 the memorandum of understanding establishing the basic training
15 program.

16 (c) The commission shall administer the training program and
17 shall issue a certificate of firearms proficiency to each community
18 supervision and corrections department officer or parole officer
19 the commission determines has successfully completed the program
20 described by Subsection (a).

21 (d) The commission may establish reasonable and necessary
22 fees for the administration of this section.

23 SECTION 31. Section 1(10), Article 4413(29ee), Revised
24 Statutes, is repealed.

25 SECTION 32. The Commission on Law Enforcement Officer
26 Standards and Education and the Texas Department of Criminal
27 Justice shall adopt the memorandum of understanding required by

1 Section 415.038, Government Code, as added by this Act, not later
2 than January 1, 1998.

3 SECTION 33. (a) The changes in law made by this Act in
4 repealing Section 1(10), Article 4413(29ee), Revised Statutes,
5 adding Section 2(d), Article 4413(29ee), Revised Statutes, and
6 amending Sections 12.092 and 12.095, Health and Safety Code, as
7 added by Chapter 165, Acts of the 74th Legislature, Regular
8 Session, 1995, apply only to a person's initial application for a
9 license to carry a concealed handgun under Article 4413(29ee),
10 Revised Statutes, if the application is made on or after the
11 effective date of this Act. A person who makes an initial
12 application for a license to carry a concealed handgun under
13 Article 4413(29ee), Revised Statutes, before the effective date of
14 this Act is covered by the law that existed when the application
15 was made, and the former law is continued in effect for that
16 purpose.

17 (b) The changes in law made by this Act in repealing Section
18 1(10), Article 4413(29ee), Revised Statutes, adding Section 2(d),
19 Article 4413(29ee), Revised Statutes, and amending Sections 12.092
20 and 12.095, Health and Safety Code, as added by Chapter 165, Acts
21 of the 74th Legislature, Regular Session, 1995, regarding the
22 revocation of a license to carry a handgun, apply to any revocation
23 proceeding initiated on or after the effective date of this Act.

24 SECTION 34. Not later than September 1, 1998, a person who
25 before the effective date of this Act was licensed to carry a
26 concealed handgun under Article 4413(29ee), Revised Statutes, and
27 whose license was revoked on the sole basis that the person was

1 charged with the commission of a Class A or Class B misdemeanor or
2 an offense under Section 42.01, Penal Code, or a felony under an
3 information or indictment may apply to the department to change the
4 status of the person's license in accordance with Sections 12 and
5 13, Article 4413(29ee), Revised Statutes, as amended by this Act.
6 The Department of Public Safety shall promptly place the person's
7 license on suspension, if the charges against the person are still
8 pending, or reinstate the person's license, if the charges against
9 the person have been dismissed.

10 SECTION 35. Not later than December 1, 1997, the Department
11 of Public Safety shall establish the procedure and shall commence
12 any negotiation required by Section 35, Article 4413(29ee), Revised
13 Statutes, as amended by this Act.

14 SECTION 36. (a) The Texas Alcoholic Beverage Commission
15 shall:

16 (1) not later than October 1, 1997, adopt the rules
17 required by Section 104.06, Alcoholic Beverage Code, as added by
18 this Act; and

19 (2) at the time of the issuance or the first renewal
20 of a license or permit under the Alcoholic Beverage Code, that
21 allows on-premises consumption of any alcoholic beverage and that
22 occurs on or after October 1, 1997, make the initial determination
23 required by Section 104.06, Alcoholic Beverage Code, as added by
24 this Act.

25 (b) The change in law made by this Act to Section 31,
26 Article 4413(29ee), Revised Statutes, applies only to the display
27 of a sign on or after the date the Texas Alcoholic Beverage

1 Commission makes an initial determination under Section 104.06,
2 Alcoholic Beverage Code, as added by this Act, in accordance with
3 Subsection (a)(2) of this section, with respect to the holder of a
4 license or permit who conducts business on the premises for which
5 the determination is made.

6 (c) The change in law made by this Act to Section 46.035,
7 Penal Code, relating to the Texas Alcoholic Beverage Commission's
8 determination of the percentage of income derived from the sale or
9 service of alcoholic beverages for on-premises consumption applies
10 only to an offense committed on or after October 1, 1998. For
11 purposes of this section, an offense is committed before October 1,
12 1998, if any element of the offense occurs before that date.

13 SECTION 37. The changes in law made by this Act to Sections
14 46.02, 46.03, and 46.15, Penal Code, apply only to an offense
15 committed on or after the effective date of this Act. An offense
16 committed before the effective date of this Act is covered by the
17 law in effect when the offense was committed, and the former law is
18 continued in effect for that purpose. For purposes of this
19 section, an offense was committed before the effective date of this
20 Act if any element of the offense occurred before that date.

21 SECTION 38. This Act takes effect September 1, 1997.

22 SECTION 39. The importance of this legislation and the
23 crowded condition of the calendars in both houses create an
24 emergency and an imperative public necessity that the
25 constitutional rule requiring bills to be read on three several
26 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 2909

President of the Senate

Speaker of the House

I certify that H.B. No. 2909 was passed by the House on May 14, 1997, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2909 on May 29, 1997, by a non-record vote; and that the House adopted H.C.R. No. 329 authorizing certain corrections in H.B. No. 2909 on May 31, 1997, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 2909 was passed by the Senate, with amendments, on May 28, 1997, by a viva-voce vote; and that the Senate adopted H.C.R. No. 329 authorizing certain corrections in H.B. No. 2909 on June 1, 1997, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 2909⁽¹⁾ was passed by the House on

May 14⁽²⁾, 1997, by a non-record vote;

and that the House concurred in Senate amendments to H.B. No. 2909⁽¹⁾
on May 29⁽³⁾, 1997, by a non-record vote.

Chief Clerk of the House

**** Preparation: CT47;

I certify that H.B. No. 2909⁽¹⁾ was passed by the Senate, with

amendments, on May 28⁽²⁾, 1997, by a

viva-voce vote.

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: CT33;

INSERT A

and that the House adopted H.C.R. No. 329₍₁₎ authorizing certain
corrections in H.B. No. 2909₍₂₎ on May 31₍₃₎, 1997,
by a non-record vote.

**** Preparation: CT65;

INSERT B

and that the Senate adopted H.C.R. No. 329₍₁₎ authorizing certain
corrections in H.B. No. 2909₍₂₎ on June 1₍₃₎, 1997,
by a viva-voce vote.

**** Preparation: CT66;

75TH LEGISLATURE

COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form in lieu of the front or the back of the original bill)

For chief clerk use only
Bill or Resolution Number: hb 2909

Bill G. Carter
signature of primary author

Bill G. CARTER
printed name of primary author

3/12/97
Date

PERMISSION TO SIGN _____ HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)

☒ ALL REPRESENTATIVES
THE FOLLOWING REPRESENTATIVE(S): _____

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

A2120 Alexander	Date	A2645 Cuellar	Date	A2935 Giddings	Date
A2115 Allen	Date	A2635 Culberson	Date	A2880 Glaze	Date
A2105 Alvarado	Date	A2670 Danburg	Date	A2985 Goodman	Date
A2135 Averitt	Date	A2675 Davila	Date	A2990 Goolsby	Date
A2160 Bailey	Date	A2625 Davis	Date	A3005 Gray	Date
A2200 Berlanga	Date	A2680 Delisi	Date	A3010 Greenberg	Date
A2250 Bonnen	Date	A3385 Denny	Date	A3020 Grusendorf	Date
A2275 Bosse	Date	A2705 Driver	Date	A3030 Gutierrez	Date
A2260 Brimer	Date	A2665 Dukes	Date	A3035 Haggerty	Date
A2255 Burnam	Date	A2660 Dunnam	Date	A2695 Hamric	Date
A2400 Carter	Date	A2650 Dutton	Date	A3170 Hartnett	Date
A2585 Chavez	Date	A2770 Edwards	Date	A3345 Hawley	Date
A2480 Chisum	Date	A2760 Ehrhardt	Date	A3180 Heflin	Date
A2525 Christian	Date	A2775 Eiland	Date	A3230 Hernandez	Date
<u>Mark Clark</u> <u>5/13/97</u>					
A2520 Clark	Date	A2785 Elkins	Date	A3240 Hightower	Date
A2435 Coleman	Date	A2810 Farrar	Date	A3310 Hilbert	Date
A2565 Cook	Date	A2830 Finnell	Date	A3250 Hilderbran	Date
<u>Corte</u> <u>3/12/96</u>					
A2595 Corte	Date	A2840 Flores	Date	A3275 Hill	Date
A2600 Counts	Date	A2920 Gallego	Date	A3270 Hinojosa	Date
A2605 Crabb	Date	A2910 Galloway	Date	A3285 Hirschi	Date
A2610 Craddick	Date	A2930 Garcia	Date	A3305 Hochberg	Date

For chief clerk use only
Bill or Resolution Number:_____

A3290 Hodge	Date	A3845 McReynolds	Date	A4435 Shields	Date
A3295 Holzheuser	Date	A3840 Merritt	Date	A4445 Siebert	Date
A3300 Horn	Date	A3850 Moffat	Date	A4525 Smith	Date
A3315 Howard	Date	A3860 Moreno	Date	A4530 Smithee	Date
A3355 Hunter	Date	A3865 Mowery	Date	A4550 Solis	Date
A3360 Hupp	Date	A3885 Naishtat	Date	A4505 Solomons	Date
A3375 Isett	Date	A3895 Nixon	Date	A4515 Staples	Date
A3380 Jackson	Date	A3875 Oakley	Date	A4510 Stiles	Date
A3415 Janek	Date	A3880 Oliveira	Date	A4570 Swinford	Date
A3405 Jones, Delwin	Date	A3886 Olivo	Date	A4585 Talton	Date
A3400 Jones, Jesse	Date	A4010 Palmer	Date	A4605 Telford	Date
A3440 Junell	Date	A4070 Patterson	Date	A4630 Thompson	Date
A3460 Kamel	Date	A4180 Pickett	Date	A4635 Tillery	Date
A3475 Keel	Date	A4185 Pitts	Date	A4640 Torres	Date
A3480 Keffer	Date	A4110 Place	Date	A2730 Turner, Bob	Date
A3465 King	Date	A4190 Price	Date	A4685 Turner, Sylvester	Date
A3485 Krusee	Date	A4200 Puente	Date	A4690 Uher	Date
A3490 Kubiak	Date	A4230 Rabuck	Date	A4720 Van de Putte	Date
A3450 Kuempel	Date	A4210 Ramsay	Date	A4990 Walker	Date
A3510 Laney	Date	A4240 Rangel	Date	A4995 West	Date
A3605 Lewis, Glenn	Date	A4235 Raymond	Date	A5035 Williams	Date
A3600 Lewis, Ron	Date	A4245 Reyna, Arthur	Date	A5010 Williamson	Date
A3615 Longoria	Date	A4236 Reyna, Elvira	Date	A5000 Wilson	Date
A3620 Luna,Vilma	Date	A4260 Rhodes	Date	A5020 Wise	Date
A3715 Madden	Date	A4315 Rodriguez	Date	A5015 Wohlgemuth	Date
A3750 Marchant	Date	A4320 Roman	Date	A4980 Wolens	Date
A2700 Maxey	Date	A4370 Sadler	Date	A5005 Woolley	Date
A3665 McCall	Date	A4420 Seaman	Date	A5025 Yarbrough	Date
A3650 McClendon	Date	A4460 Serna	Date	A5040 Zbranek	Date

SENT TO SENATE

for chief clerk use only

Bill or Resolution Number:

hb 2909

JOINT AUTHOR AUTHORIZATION

As primary author of _____ I hereby authorize the following joint author(s):
(bill or resolution #)

WARREN Chism

printed name of joint author #1

Warren Chism

signature of joint author #1

MAR 13 1997

Ray Allen

printed name of joint author #2

[Signature]

signature of joint author #2

SUZANNA Hupp

printed name of joint author #3

[Signature]

signature of joint author #3

397

Ron Wilson

printed name of joint author #4

[Signature]

signature of joint author #4

Bill G Carter

signature of primary author

MAR 13 1997

date

H.B. No.

2909

A BILL TO BE ENTITLED
AN ACT

By

Bill G. Carter

Relating to persons eligible for a license to carry a concealed handgun, to the rights and duties of license holders, and to certain offenses involving weapons.

MAR 13 1997

Filed with the Chief Clerk

MAR 17 1997

Read first time and referred to Committee on

Public Safety

APR 15 1997

Reported favorably (~~unanimous consent~~)
(as substituted)

APR 16 1997

Sent to Committee on (Calendars)

(~~Unanimous Consent Calendars~~)

MAY 13 1997

Read second time (comm. subst.) (amended); passed to third reading (~~failed~~) by a (non-record vote)
(~~record vote~~ of ~~yeas~~, ~~nays~~, ~~present~~, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of ~~yeas~~, ~~nays~~, ~~present~~, not voting

MAY 14 1997

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (non-record vote)

(~~record vote~~ of ~~yeas~~, ~~nays~~, ~~present~~, not voting)

MAY 14 1997

Engrossed

MAY 15 1997

Sent to Senate

Sharon Carter

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

MAY 15 1997

Received from the House

CRIMINAL JUSTICE

MAY 16 1997

Read and referred to Committee on

MAY 18 1997

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

MAY 27 1997

Senate and Constitutional Rules to permit consideration suspended by (~~unanimous consent~~)

(23 yeas, 7 nays)

MAY 27 1997

Read second time, amended, and passed to third reading by (~~unanimous consent~~)

(a viva voce vote)

(~~yeas~~, ~~nays~~)

MAY 28 1997

Senate and Constitutional 3 Day Rules suspended by a vote of ~~yeas~~, ~~nays~~

MAY 28 1997

Senate Rules suspended by unanimous consent.
Read third time, and passed by (a viva voce vote)

(~~yeas~~, ~~nays~~)

May 28, 1997

Returned to the House

Kathy Kinn

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

MAY 27 1997 Senate 3 Day Rule failed to suspend by 24 yeas 7 nays

MAY 28 1997

Returned from the Senate (with amendments)

MAY 29 1997

House concurred in Senate amendments by a (non-record vote)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

House conferees appointed: _____, Chair; _____,

_____ Senate granted House request. Senate conferees appointed: _____, Chair;

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)